

Journal of the House

Friday, May 8, 2009

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Camelli, Mia and Gloria Morrison singing "God Bless America, and Mia, a violinist, who and has performed in China, Europe and Carnegie Hall.

Message from the Senate No. 58

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 125. An act relating to the sale of unpasteurized milk.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered a joint resolution originating in the House of the following title:

J.R.H. 27. Joint resolution urging Congress to enact H.R. 676, the National Health Insurance Act (or the Expanded and Improved Medicare for All Act).

And has adopted the same in concurrence.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 25. An act relating to the repeal or revision of certain state agency reporting requirements.

And has concurred therein.

The Senate has considered House proposal of amendment to Senate proposal of amendment to House bill of the following title:

H. 444. An act relating to health care reform.

And has concurred therein.

The Senate has considered House proposal of amendment to Joint Senate Resolution of the following title:

J.R.S. 32. Joint resolution authorizing the commissioner of forests, parks and recreation to enter into land exchanges and to sell a portion of Camel's Hump State Park.

And has concurred therein.

The Senate has considered the reports of the Committees of Conference upon the disagreeing votes of the two Houses upon Senate bills of the following titles:

S. 7. An act to prohibit the use of lighted tobacco products in the workplace.

S. 26. An act relating to recovery of profits from crime.

And has accepted and adopted the same on its part.

The Senate has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses upon House bill of the following title:

H. 445. An act relating to capital construction and state bonding.

And has accepted and adopted the same on its part.

Pursuant to the request of the House for a Committee of Conference on the disagreeing votes of the two Houses on House bill entitled:

H. 83. An act relating to underground storage tanks and the petroleum cleanup fund.

The President pro tempore announced the appointment as members of such Committee on the part of the Senate:

Senator MacDonald
Senator McCormack
Senator Snelling

The Governor has informed the Senate that on May 7, 2009, he approved and signed a bill originating in the Senate of the following title:

S. 96. An act relating to unclaimed property.

Message from the Senate No. 59

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered House proposals of amendment to Senate proposal of amendment to House bills of the following titles:

H. 136. An act relating to executive branch fees.

H. 436. An act relating to decommissioning and decommissioning funds of nuclear energy generation plants.

And has accepted and adopted the same on its part.

The Senate has considered the reports of the Committees of Conference upon the disagreeing votes of the two Houses upon House bills of the following titles:

H. 83. An act relating to underground storage tanks and the petroleum cleanup fund.

H. 427. An act relating to making miscellaneous amendments to education law.

H. 438. An act relating to the state's transportation program.

H. 441. An act making appropriations for the support of government.

And has accepted and adopted the same on its part.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the Speaker recognized the following named Pages who are completing their service today and presented them with commemorative pins:

Page Brooke Angell of Randolph
Page Greg Asnis of Berlin
Page Rhea Costantino of Montpelier
Page Ashlynn Doyon of Hardwick
Page Renae M. Hall of Hardwick
Page Connor Herrick of South Hero
Page Louisa Jerome of Brandon
Page Benson May of Putney
Page Anna Pettee of Guilford
Page McKinley Pierce of Warren

Remarks Journalized

On motion of **Rep. Donovan of Burlington**, the following remarks by **Rep. Aswad of Burlington** were ordered printed in the Journal:

“Mister Speaker:

I rise to a point of personal privilege.

I have a parody on some words written by Paul Anka.

And now the end is here
And so we face the final adjournment
My friends, I'll say it clear
state our case of which I'm certain

We drafted, we introduced, we took testimony,
We debated and guess what, we even roll call voted
And more much more than that
We did it our way

Regrets, we've had a few
But then again, too few to mention
We did do what we had to do
And saw it through without exemption

We planned each calendar day
And then we did it our way

Yes there were times, I'm sure you knew
When we bit off more than we could chew
But through it all when there was doubt
We talked about it
And worked it out

We faced it all and we stood tall
And did it our way
To think we did all that
And may I say, not in a shy way
Oh, no not us, we did it our way

For what is a bill
What has it got
If not teeth
Then it aught not
To pass and see the light of day

The record shows
We were on our toes
And did it our way

Technology Committee Appointed

The Speaker appointed the following members to the Technology Committee:

Rep. Atkins of Winooski
Rep. Davis of Washington
Rep. Ram of Burlington
Rep. Turner of Milton

House Resolution Adopted**H.R. 20**

House resolution, entitled

House resolution encouraging a renewed commitment to the cleanup and restoration of the water quality of Lake Champlain as part of the 400th anniversary of its discovery by Samuel de Champlain

Was taken up and adopted.

Joint Resolution Adopted in Concurrence**J.R.S. 34**

Joint resolution, entitled

Joint resolution designating October, 2009, as health care career awareness month;

Was taken up read and adopted in concurrence.

Rules Suspended; Favorable Report; Action Postponed**S. 121**

On motion of **Rep. Komline of Dorset**, the rules were suspended and House bill, entitled

An act relating to miscellaneous election laws

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Hubert of Milton, for the committee on Government Operations, to which the bill had been referred reported in favor of its passage.

Thereupon, the bill was read the second time, and on motion of **Rep. Komline of Dorset**, action on the bill was postponed until after consideration of H. 83, which was agreed to.

Rules Suspended; Report of Committee of Conference Adopted**H. 83**

On motion of **Rep. Komline of Dorset**, the rules were suspended and House bill, entitled

An act relating to underground storage tanks and the petroleum cleanup fund

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon the bill respectfully reported that it has met and considered the same and recommended that the House accede to the Senate proposal of amendment, and that the bill be further amended as follows:

First: In Sec. 5, 10 V.S.A. § 1942, by striking subsection (b) in its entirety and inserting in lieu thereof the following:

(b) There is assessed against every seller receiving more than \$10,000.00 annually for the retail sale of heating oil ~~or~~, kerosene, or other dyed diesel fuel sold in this state and not used to propel a motor vehicle, a licensing fee of one-half cent per gallon of such heating oil ~~or~~, kerosene, or other dyed diesel fuel. This fee shall be subject to the collection, administration, and enforcement provisions of chapter 233 of Title 32, and the fees collected under this subsection by the commissioner of taxes shall be deposited into the petroleum cleanup fund. The secretary, in consultation with the Vermont Petroleum Association and the Vermont Fuel Dealers Association, Inc. shall annually determine whether or not to assess the one-half cent licensing fee for the upcoming year. If the unencumbered balance of heating fuel account of the fund established under subsection 1941(a) of this title is equal to or greater than \$3,000,000.00, then the one-half cent licensing assessment for the upcoming year shall not be assessed. If the unencumbered balance in the fund is less than ~~\$3,000,000~~ \$3,000,000.00, then the annual fee may be assessed. The secretary shall notify all sellers assessing this fee of the status of the fee for the upcoming year. This fee provision shall terminate April 1, ~~2011~~ 2016.

Second: In Sec. 9, 10 V.S.A. § 1944, by striking subsection (c) in its entirety and inserting in lieu thereof the following:

(c) The loans will be at a zero interest rate, except that a person who owns five or more facilities shall have an interest rate of ~~four~~ two percent. As used in this subsection, "facility" shall mean the property upon which a category one tank is located.

Third: By adding Secs. 9a, 9b, and 9c to read as follows:

Sec. 9a. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

(a) There is imposed a gross receipts tax of 0.5 percent on the retail sale of the following types of fuel by sellers receiving more than \$10,000.00 annually for the sale of such fuels:

- (1) ~~heating oil and kerosene not used to propel a motor vehicle~~ dyed diesel fuel used for heating;
- (2) propane;
- (3) natural gas;
- (4) electricity;
- (5) coal.

* * *

Sec. 9b. 10 V.S.A. § 583 is added to read:

§ 583. REPEAL OF STAGE II VAPOR RECOVERY REQUIREMENTS

(a) Effective January 1, 2013, all rules of the secretary pertaining to stage II vapor recovery controls at gasoline dispensing facilities are repealed. The secretary may not issue further rules requiring such controls. For purposes of this section, "stage II vapor recovery" means a system for gasoline vapor recovery of emissions from the fueling of motor vehicles as described in 42 U.S.C. § 7511a(b)(3).

(b) Prior to January 1, 2013, stage II vapor recovery rules shall not apply to:

- (1) Any newly constructed gasoline dispensing facility that commences operation after May 1, 2009;
- (2) Any existing gasoline dispensing facility that has an annual gasoline throughput of 400,000 gallons or more for the first time beginning with the 2009 calendar year;
- (3) Any existing gasoline dispensing facility that, after May 1, 2009, commences excavation for the installation or repair of any below-ground component of the stage II vapor recovery system, including gasoline storage tanks, upon verification and approval by the secretary; or
- (4) Any existing gasoline dispensing facility that, after May 1, 2009, replaces all of its existing gasoline dispensers with new gasoline dispensers that support triple data encryption standard (TDES) usage or replaces one or

more of its gasoline dispensers pursuant to a plan to achieve full TDES compliance, upon verification and approval by the secretary.

(c) Within two years of January 1, 2013, or of the secretary's verification and approval that such stage II vapor recovery rules do not apply to a gasoline dispensing facility pursuant to subdivision (b)(3) or (4) of this section, whichever is earlier, each gasoline dispensing facility shall decommission its stage II vapor recovery systems, including below-ground components, pursuant to methods approved by the secretary.

Sec. 9c. 10 V.S.A. § 561(c) is amended to read:

(c) Any variance or renewal thereof shall be granted within the requirements of subsection (a) of this section and for time periods and under conditions consistent with the reasons therefore, and within the following limitations:

(1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the air pollution involved, it shall be only until the necessary practicable means for prevention, abatement, or control become known and available, and subject to the taking of any substitute or alternate measures that the secretary may prescribe.

(2) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the secretary is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a time schedule for the taking of action in an expeditious manner and shall be conditioned on adherence to the time schedule.

(3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in subdivisions (1) and (2) of this subsection, it shall be for not more than one year, except that a variance granted from the rules of the secretary pertaining to stage II vapor recovery controls at gasoline dispensing facilities shall be for a period that extends until January 1, 2013.

Committee on the part of t he Senate Committee on the part of the House

Sen. Mark MacDonald
Sen. Richard McCormack
Sen. Diane Snelling

Rep. Peter Fagan
Rep. David Sharpe

Which was considered and adopted on the part of the House.

**Consideration Resumed; Third Reading Ordered; Rules Suspended;
Bill Read Third Time and Passed in Concurrence; Rules Suspended and
Bill Ordered Messaged to the Seante Forthwith**

S. 121

Consideration resumed on House bill, entitled

An act relating to miscellaneous election laws

Was taken up and third reading ordered.

On motion of **Rep. Komline of Dorset**, the rules were suspended and the bill placed on all remaining stages of passage in concurrence. The bill was read the third time and passed in concurrence and, on motion of **Rep. Komline of Dorset**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Message from the Senate No. 60

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate requests the House to return to the custody of the Senate, a bill originating in the House of the following title:

H. 438. An act relating to the state's transportation program.

**Rules Suspended; Report of Committee of Conference Considered;
Action Postponed**

H. 427

On motion of **Rep. Komline of Dorset**, the rules were suspended and House bill, entitled

An act relating to making miscellaneous amendments to education law

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon the bill respectfully reported that it has met and considered the same and recommended that the Senate recede from its proposal

of amendment and that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Cross-References * * *

Sec. 1. 16 V.S.A. § 11(a)(30) is amended to read:

(30) "Hazing" means any act committed by a person, whether individually or in concert with others, against a student in connection with pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization which is affiliated with an educational institution; and which is intended to have the effect of, or should reasonably be expected to have the effect of, humiliating, intimidating or demeaning the student or endangering the mental or physical health of a student. Hazing also includes soliciting, directing, aiding, or otherwise participating actively or passively in the above acts. Hazing may occur on or off the campus of an educational institution. Hazing shall not include any activity or conduct that furthers legitimate curricular, extracurricular, or military training program goals, provided that:

(1) the goals are approved by the educational institution; and

(2) the activity or conduct furthers the goals in a manner that is appropriate, contemplated by the educational institution, and normal and customary for similar programs at other educational institutions.

The definitions of ~~educational institution, organization, pledging, and student~~ "educational institution," "organization," "pledging," and "student" shall be the same as those in section ~~154~~ 140a of this title.

* * * Audits and Auditors * * *

Sec. 2. 16 V.S.A. § 261a(10) is amended to read:

(10) submit to the town auditors of each member school district or to the person authorized to perform the duties of an auditor for the school district, on or before January 15 of each year, a summary report of financial operations of the supervisory union for the preceding school year, an estimate of its financial operations for the current school year, and a preliminary budget for the supervisory union for the ensuing school year. This requirement shall not apply to a supervisory district. For each school year, the report shall show the actual or estimated amount ~~of state aid for special education awarded to~~ expended by the supervisory union for special education-related services, including the amount generated by, and the amount allocated to:

(A) A breakdown of that figure showing the amount paid by each school district within the supervisory union.

(B) A summary of the services provided by the supervisory union's use of the expended funds.

Sec. 3. 16 V.S.A. § 323 is amended to read:

§ 323. AUDIT BY PUBLIC ACCOUNTANT

Annually, the supervisory union board shall employ a public accountant to audit the financial statement of the supervisory union. The audit shall be conducted in accordance with generally accepted government auditing standards, including the issuance of a report of internal controls over financial reporting that shall be provided to recipients of the financial statements. Any annual report of the supervisory union to member districts shall include notice that an audit has been performed.

Sec. 4. 16 V.S.A. § 563(17) is amended to read:

(17) Shall employ a public accountant at least once in each period of three years to audit the financial statements of the school district. However, if the town has voted to eliminate the office of auditor under section 2651b of Title 17, the school board shall employ a public accountant annually to audit the financial statements of the school district pursuant to that section. Audits performed by public accountants shall be conducted in accordance with generally accepted government auditing standards, including the issuance of a report of internal controls over financial reporting that shall be provided to recipients of the financial statements. The school board may authorize an audit in conjunction with another school district or a supervisory union.

Sec. 5. 17 V.S.A. § 2647 is amended to read:

§ 2647. INCOMPATIBLE OFFICES

(a) An auditor shall not be town clerk, town treasurer, selectman, first constable, collector of current or delinquent taxes, trustee of public funds, town manager, road commissioner, water commissioner, sewage system commissioner, sewage disposal commissioner, or town district school director; nor shall a spouse of or any person assisting any of these officers in the discharge of ~~their~~ official duties be eligible to hold office as auditor. A selectman or school director shall not be first constable, collector of taxes, town treasurer, auditor, or town agent. A selectman shall not be lister. A town manager shall not hold any elective office in the town or town school district. Election officers at local elections shall be disqualified as provided in section 2456 of this title.

(b) Notwithstanding subsection (a) of this section, if a school district prepares and reports its budget independently from the budget of the town and the school district is audited by an independent public accountant, a person

shall be eligible to hold office as auditor even if that person's spouse holds office as a school director.

* * * School District Budgets * * *

Sec. 6. 16 V.S.A. § 563(11)(B)(ii) is amended to read:

(ii) ~~Form of vote.~~ The ballot shall be in the following form:

~~“School Budget Question #1:~~

~~Shall the voters of the School District approve a total budget in the amount of [\$ _____], which includes the Maximum Inflation Amount of education spending?~~

~~“School Budget Question #2:~~

~~If Question #1 is approved, shall the voters of the School District also approve additional education spending of [\$ _____]?”~~

“The total proposed budget of \$ _____ is the amount determined by the school board to be necessary to support the school district's educational program. State law requires the vote on this budget to be divided because (i) the school district's spending per pupil last year was more than the statewide average and (ii) this year's proposed budget is greater than last year's budget adjusted for inflation.

“Article #1 (School Budget):

Part A. Shall the voters of the school district authorize the school board to expend \$ _____, which is a portion of the amount the school board has determined to be necessary?

Part B. If Part A is approved by the voters, shall the voters of the school district also authorize the school board to expend \$ _____, which is the remainder of the amount the school board has determined to be necessary?”

Sec. 7. EFFECTS ON EXISTING LAW

Nothing in Sec. 6 of this act shall repeal or amend the application of the provisions of Sec. 6 of No. 82 of the Acts of 2007 to 16 V.S.A. § 563(11).

Sec. 8. 16 V.S.A. § 563(11)(C) is amended to read:

(C) At a school district's annual or special meeting, the electorate may vote to provide notice of availability of the school budget required by this subdivision to the electorate in lieu of distributing the budget. If the electorate of the school district votes to provide notice of availability, it must specify how

notice of availability shall be given, and such notice of availability shall be provided to the electorate at least 30 days before the district's annual meeting. The proposed budget shall be prepared and distributed at least ten days before a sum of money is voted on by the electorate. Any proposed budget shall show the following information in a format prescribed by the commissioner of education:

(i) all revenues from all sources, and expenses, including as separate items any assessment for a ~~union school district~~ or a supervisory union of which it is a member, and any tuition to be paid to a technical center;

(ii) the specific amount of any deficit incurred in the most recently closed fiscal year and how the deficit was or will be remedied;

(iii) the anticipated homestead tax rate and the percentage of household income used to determine income sensitivity in the district as a result of passage of the budget; including those portions of the tax rate attributable to ~~the union school and~~ supervisory union assessments; and

(iv) ~~in the case of a school district:~~

~~(I) other than a union school district, the definition of "education spending," the number of pupils and number of equalized pupils in the school district, and the district's education spending per equalized pupil in the proposed budget and in each of the prior three years; or~~

~~(II) in the case of a union school district, the amount of the assessment to each of the member districts and the amount of the assessments per equalized pupil in the proposed budget and for the past three years.~~

Sec. 9. 16 V.S.A. § 563(10) is amended to read:

(10) Shall prepare and distribute to the electorate, not less than ten days prior to the district's annual meeting, a report of the conditions and needs of the district school system, including the superintendent's, supervisory union treasurer's, and school district treasurer's annual report for the previous school year, the balance of any reserve funds established pursuant to 24 V.S.A. § 2804, a summary of the town auditor's report as to fiscal years which are audited by town auditors as required by 24 V.S.A. § 1681, a summary of the public accountant's report as to fiscal years which are audited by a public accountant, and a notice of the time and place where the full report of the town auditor or the public accountant will be available for inspection and copying at cost. Each town auditor's and public accountant's report shall comply with 24 V.S.A. § 1683(a). At a school district's annual meeting, the electorate may vote to provide notice of availability of the report required by this subdivision to the electorate in lieu of distributing the report. If the electorate of the school district votes to provide notice of availability, it must specify how notice of

availability shall be given, and such notice of availability shall be provided to the electorate at least 30 days before the district's annual or special meeting.

* * * Union Districts; Consolidation * * *

Sec. 10. 16 V.S.A. § 706f is amended to read:

§ 706f. CONTENTS OF WARNING ON VOTE TO ESTABLISH THE UNION

The warning for each school district meeting shall contain two articles in substantially the following form:

WARNING

The voters of the town (city, union, etc.) school district of _____ are hereby notified and warned to meet at _____ on the _____ day of _____, _____, to vote by Australian ballot between the hours of _____, at which time the polls will open, and, at which time the polls will close, upon the following articles of business:

Article I

Shall the town (city, union, etc.) school district of _____ which the State Board of Education has found (necessary or advisable) to include in the proposed union school district, join with the school districts of _____ and _____, which the State Board of Education has found necessary to include in the proposed union school district, and the school districts of _____ and _____, which the State Board of Education has found advisable to include in the proposed union school district, for the purpose of forming a union school district, as provided in Title 16, Vermont Statutes Annotated, upon the following conditions and agreements:

(a) Grades. The union school district shall operate and manage a school offering instruction in grades _____ through _____.

* * *

Sec. 11. 16 V.S.A. § 721a(b) is amended to read:

(b) When a majority of the voters of a school district present and voting at a school district meeting duly warned for that purpose votes to withdraw from a union school district the vote shall be certified by the clerk of the school district to the secretary of state who shall record the certificate in his or her office and give notice of the vote to the commissioner of education and to the other member districts of the union school district. ~~Those~~ Within 90 days after receiving notice, those member districts shall vote by Australian ballot on the same day during the same hours whether to ratify withdrawal of the member district. Withdrawal by a member district shall be effective only if approved

by an affirmative vote of each of the other member school districts within the union school district.

Sec. 12. SCHOOL DISTRICT CONSOLIDATION

School districts that have entered into a contract to operate schools jointly pursuant to 16 V.S.A. chapter 11, subchapter 1, shall be eligible through June 30, 2010 for any transition aid that is available under Sec. 168a of No. 122 of the Acts of the 2003 Adj. Sess. (2004) as amended by Sec. 23 of No. 66 of the Acts of 2007 under the same terms and conditions as a union, unified union, or interstate school district.

* * * Tuition; Designation; Maintain School * * *

Sec. 13. 16 V.S.A. chapter 21 is amended to read:

CHAPTER 21. MAINTENANCE OF PUBLIC SCHOOLS

§ 821. SCHOOL DISTRICT TO MAINTAIN PUBLIC ELEMENTARY SCHOOLS OR PAY TUITION

(a) Elementary school. Each school district shall provide, furnish, and maintain one or more approved schools within the district in which elementary education for its pupils is provided unless:

(1) The electorate authorizes the school board to provide for the elementary education of the pupils residing in the district by paying tuition in accordance with law to one or more public elementary schools in one or more school districts.

* * *

(b) Kindergarten program. Each school district shall provide public kindergarten education within the district. However, a school district may pay tuition for the kindergarten education of its pupils:

(1) at one or more public schools under subdivision (a)(1) of this section; or

(2) if the electorate authorizes the school board to pay tuition to one or more approved independent schools ~~approved by the state board or independent schools meeting school quality standards~~, but only if the school district did not operate a kindergarten on September 1, 1984, and has not done so afterward.

(c) Notwithstanding subsection (a) of this section, a school board without previous authorization by the electorate may pay tuition for elementary pupils who reside near a public elementary school in an adjacent district upon request of the pupil's parent or guardian, if in the board's judgment the pupil's

education can be more conveniently furnished there due to geographic considerations. ~~The board's decision shall be final in regard to the institution the pupil may attend.~~ Within 30 days of the board's decision, a parent or guardian who is dissatisfied with the decision of the board under this subsection may request a determination by the commissioner, who shall have authority to direct the school board to pay all, some, or none of the pupil's tuition and whose decision shall be final.

(d) Notwithstanding subsection (a) of this section, the electorate of a school district that does not maintain an elementary school may grant general authority to the school board to pay tuition for an elementary pupil at an approved independent nonresidential elementary school upon request of a notice given by the pupil's parent or legal guardian, if in the board's judgment the pupil's educational interests can be better served there. ~~The board's decision shall be final in regard to the institution the pupil may attend before April 15 for the next academic year; provided the board shall pay tuition for the pupil in an amount not to exceed the least of:~~

(1) The statewide average announced tuition of Vermont union elementary schools.

(2) The average per-pupil tuition the district pays for its other resident elementary pupils in the year in which the pupil is enrolled in the approved independent school.

(3) The tuition charged by the approved independent school in the year in which the pupil is enrolled.

§ 822. SCHOOL DISTRICTS TO MAINTAIN HIGH SCHOOLS OR PAY TUITION

(a) Each school district shall provide, furnish, and maintain one or more approved high schools in which high school education is provided for its pupils unless:

(1) The electorate authorizes the school board to close an existing high school and to provide for the high school education of its pupils by paying tuition in accordance with law. Tuition for its pupils shall be paid to ~~an approved a public or high school, an approved independent high school, or an independent school meeting school quality standards,~~ to be selected by the parents or guardians of the pupil, within or without the state; or

* * *

(c) The school board may both maintain a high school and furnish high school education by paying tuition to a public school as in the judgment of the board may best serve the interests of the pupils, or to an approved independent

school or an independent school meeting school quality standards if the board judges that a pupil has unique educational needs that cannot be served within the district or at a nearby public school. Its judgment shall be final in regard to the institution the pupils may attend at public cost.

§ 823. ELEMENTARY TUITION

* * *

(b) The tuition paid to an approved independent elementary school or an independent school meeting school quality standards shall not exceed the lesser of: (1) the average announced tuition of Vermont union elementary schools for the year of attendance; or (2) the tuition charged by the independent school. However, the electorate of a school district may authorize the payment of a higher amount at an annual or special meeting warned for the purpose.

§ 824. HIGH SCHOOL TUITION

(a) Tuition for high school pupils shall be paid by the school district in which the pupil is a resident.

(b) Except as otherwise provided for technical students, the district shall pay the full tuition charged its pupils attending a public high school in Vermont or an adjoining state; or a public or approved independent school in Vermont functioning as an approved area technical center, or an independent school meeting school quality standards; provided:

(1) If a payment made to a public high school or an independent school meeting school quality standards is three percent more or less than the calculated net cost per secondary pupil in the receiving school district or independent school for the year of attendance then the district or school shall be reimbursed, credited, or refunded pursuant to section 836 of this title.

(2) Notwithstanding the provisions of this subsection or of subsection 825(b) of this title, the ~~boards board~~ of the receiving ~~and sending districts or independent schools~~ public school district, public or approved independent school functioning as an area technical center, or independent school meeting school quality standards may enter into tuition agreements with the boards of sending districts that have terms differing from the provisions of those subsections, provided that the receiving district or school must offer identical terms to all sending districts, and further provided that the statutory provisions apply to any sending district that declines the offered terms.

(c) ~~For students in grades 7-12, the~~ The district shall pay an amount not to exceed the average announced tuition of Vermont union high schools for ~~students in grades 7-12 for~~ the year of attendance for its pupils enrolled in an

approved independent school not functioning as a Vermont area technical center, or any higher amount approved by the electorate at an annual or special meeting warned for that purpose.

* * *

§ 826. NOTICE OF TUITION RATES; SPECIAL EDUCATION CHARGES

(a) A school board, or the board of trustees of an independent school meeting school quality standards ~~which~~ that proposes to increase tuition charges shall notify the school board of the school district from which its nonresident pupils come, and the commissioner, of the proposed increase on or before ~~February 1~~ January 15 in any year; such increases shall not become effective without the notice and not until the following school year.

* * *

§ 827. DESIGNATION OF A PUBLIC HIGH SCHOOL OR AN APPROVED INDEPENDENT HIGH SCHOOL AS THE SOLE PUBLIC HIGH SCHOOL OF A SCHOOL DISTRICT

(a) A school district not maintaining an approved public high school may vote on such terms or conditions as it deems appropriate, to designate an approved independent school or a public school as the public high school of the district.

(b) ~~When~~ Except as otherwise provided in this section, if the board of trustees or the school board of such the designated school votes to accept this designation the school shall be regarded as a public school for tuition purposes under subsection 824(b) of this title and the sending school district shall pay tuition to ~~the~~ that school only, until such time as the sending school district or ~~the board of trustees of the designated~~ school votes to rescind the designation.

(c) A parent or legal guardian who is dissatisfied with the instruction provided at the designated school or who cannot obtain for his or her child the kind of course or instruction desired there, or whose child can be better accommodated in an approved independent or public high school nearer his or her home during the next academic year, may request on or before April 15 that the school board to pay tuition to another approved independent or public high school selected by the parent or guardian.

(d) The school board may pay tuition to another approved high school as requested by the parent or legal guardian if in its judgment that will best serve the interests of the pupil. Its decision shall be final in regard to the institution the pupil may attend. If the board approves the parent's request, the board shall pay tuition for the pupil in an amount not to exceed the least of:

(1) The statewide average announced tuition of Vermont union high schools.

(2) The per-pupil tuition the district pays to the designated school in the year in which the pupil is enrolled in the nondesignated school.

(3) The tuition charged by the approved nondesignated school in the year in which the pupil is enrolled.

§ 828. TUITION TO APPROVED SCHOOLS, AGE, APPEAL

A school district shall not pay the tuition of a pupil except to a public ~~or~~ school, an approved independent school or, an independent school meeting school quality standards, a tutorial program approved by the state board, an approved education program, or an independent school in another state or country approved under the laws of that state or country, nor shall payment of tuition on behalf of a person be denied on account of age. Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the state board and its decision shall be final.

* * *

* * * State-Placed Students * * *

Sec. 14. 16 V.S.A. § 11(a)(28) is amended to read:

(28) "State-placed student" means:

(A) a Vermont pupil who has been placed in a school district other than the district of residence of the pupil's parent, parents or guardian or in an approved residential facility by a Vermont state agency, a Vermont licensed child placement agency, a designated community mental health agency, or any other agency as defined by the commissioner; or

(B) a Vermont pupil who:

(i) is 18 years of age or older;

(ii) is living in a community residence as a result of placement by a Vermont state agency, a Vermont licensed child placement agency or a designated community mental health agency, and whose residential costs are paid for in whole or in part by one of these agencies; and

(iii) resides in a school district other than the district of the pupil's parent or parents; or

~~(C) a pregnant or postpartum pupil attending school at an approved education program in a residential facility or outside the school district of residence pursuant to subsection 1073(b) of this title~~

(D) A Vermont pupil who:

(i) Is in either:

(I) The legal custody of the commissioner for children and families; or

(II) The temporary legal custody of an individual pursuant to subdivision 5308(b)(3) or (4) of Title 33, until a disposition order has been entered pursuant to section 5318 of that title; and

(ii) Is determined by the commissioner of education to be in particular need of educational continuity by attending a school in a district other than the pupil's current district of residence;

(E) ~~"State-placed student"~~ But does not include pupils mean a pupil placed within a correctional facility or in the Woodside Juvenile Rehabilitation Center or The Eldred School operated by the Vermont State Hospital.

Sec. 15. 16 V.S.A. § 1075(b) and (c) are amended to read:

(b) The commissioner shall determine the legal residence of all state-placed students pursuant to the provisions of this section. In all other cases, the pupil's legal residence shall be determined by the board of school directors of the district in which the pupil is seeking enrollment or, if the pupil is seeking payment of tuition, the board of directors from which the pupil is seeking tuition payment. If a pupil is denied enrollment at any stage, the pupil and his or her parent or guardian shall be notified in writing, within 24 hours, of the provisions of this section. If the pupil is not in attendance as a result of a preliminary decision by school officials and a decision from the board of school directors will not be available by the end of the second school day after the request for enrollment is made, the commissioner may issue a temporary order requiring enrollment. Any interested person or taxpayer who is dissatisfied with the decision of the board as to the pupil's legal residence may appeal to the commissioner of education, who shall determine the pupil's legal residence, and the decision of the commissioner shall be final. Pending appeal under this subsection, the commissioner shall issue a temporary order requiring enrollment.

(c) State-placed students.

(1) A state-placed student, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated by the school district in which the pupil is living, unless an alternative plan or facility for the education of the pupil is agreed upon by the commissioner of education. In the case of a dispute as to where a state-placed student is living, the commissioner shall conduct a hearing to determine which school district is

responsible for educating the pupil. The commissioner's decision shall be final.

(2) If a pupil is a state-placed student pursuant to subdivision 11(a)(28)(D)(i)(I) of this title, then the department for children and families shall assume responsibility for the pupil's transportation to and from school, unless the receiving district chooses to provide transportation.

(3) A pupil who is in temporary legal custody pursuant to subdivision 5308(b)(3) or (4) of Title 33 and is a state-placed student pursuant to subdivision 11(a)(28)(D)(i)(II) of this title, shall be enrolled, at the temporary legal custodian's discretion, in the district in which the pupil's parents reside, the district in which either parent resides if the parents live in different districts, the district in which the pupil's legal guardian resides, or the district in which the temporary legal custodian resides. If the pupil enrolls in the district in which the temporary legal custodian resides, the district shall provide transportation in the same manner and to the same extent it is provided to other students in the district. In all other cases, the temporary legal custodian is responsible for the pupil's transportation to and from school, unless the receiving district chooses to provide transportation.

(4) If a pupil who had been a state-placed student pursuant to subdivision 11(a)(28) of this title is returned to live in the district in which one or more of the pupil's parents or legal guardians reside, then, at the request of the pupil's parent or legal guardian, the commissioner of education may order the pupil to continue his or her enrollment for the remainder of the academic year in the district in which the pupil resided prior to returning to the parent's or guardian's district and the pupil will continue to be funded as a state-placed student. Unless the receiving district chooses to provide transportation:

(A) If the pupil remains in the legal custody of the commissioner for children and families, then the department for children and families shall assume responsibility for the pupil's transportation to and from school.

(B) In all other instances under this subdivision (4), the parent or legal guardian is responsible for the pupil's transportation.

* * * Base Education Payment; Base Education Amount * * *

Sec. 16. 16 V.S.A. § 4001(13) is amended to read:

(13) "Base education ~~payment~~ amount" means a number used to calculate tax rates. The base education amount is \$6,800.00 per equalized pupil, adjusted as required under section 4011 of this title.

Sec. 17. 16 V.S.A. § 4011 is amended to read:

§ 4011. EDUCATION PAYMENTS

(a) Annually, the general assembly shall appropriate funds to pay for statewide education spending and a portion of a base education ~~payment~~ amount for each adult diploma student.

(b) For each fiscal year, the base education ~~payment~~ amount shall be \$6,800.00, increased by the most recent New England Economic Project cumulative price index, as of November 15, for state and local government purchases of goods and services from fiscal year 2005 through the fiscal year, for which the ~~payment~~ amount is being determined, plus an additional one-tenth of one percent.

* * *

(e) The commissioner shall pay an amount equal to 87 percent of the base education ~~payment~~ amount to the Vermont Academy of Science and Technology for each Vermont resident, 12th grade student enrolled.

(f) Annually, the commissioner shall pay to a department or agency which provides an adult diploma program, an amount equal to 26 percent of the base education ~~payment~~ amount for each student who completed the diagnostic portion of the program, based on an average of the previous two years.

(g) The commissioner shall pay to a school district a percentage of the base education ~~payment~~ amount for each resident student for whom the district is paying a technical tuition to a regional technical center but who is not enrolled in the district and therefore not counted in the average daily membership of the district. The percentage of the base education ~~payment~~ amount to be paid shall be the percentage of the student's full-time equivalent attendance at technical center multiplied by 87 percent.

* * *

Sec. 18. 16 V.S.A. § 1561 is amended to read:

§ 1561. TUITION REDUCTION

* * *

(b) On behalf of a sending school district within Vermont, a technical center shall receive from the education fund for each full-time equivalent student from the district 87 percent of the base education ~~payment~~ amount and an equivalent amount shall be subtracted from the amount due to the sending district under section 4011 of this title. The amount sent to the technical center and subtracted from the sending district shall be considered a revenue and an expenditure of the district and shall be reported as such in appropriate accounts and in the district's annual budget.

(c) Annually, the general assembly shall appropriate funds to pay for a supplemental assistance grant per full-time equivalent student. The amount of the grant shall be equal to 35 percent of the base education ~~payment~~ amount for that year.

(d) In any year following a year in which fall semester full-time equivalent enrollment of students at a technical center increased by 20 percent or more over the previous fall semester, in addition to other aid, the technical center shall receive an extra supplemental assistance grant equal to two-thirds of the 35 percent of the base education ~~payment~~ amount for that year, multiplied by the actual full-time equivalent enrollment increase. The next year, if the increase in fall semester full-time equivalent enrollment is less than 20 percent, in addition to other aid, the technical center shall receive an extra supplemental assistance grant equal to one-third of the 35 percent of the base education ~~payment~~ amount for the year multiplied by the actual full-time equivalent increase of the previous fall semester.

Sec. 19. CONSISTENT USE OF TERM

Pursuant to its statutory revision authority at 2 V.S.A. § 424, the legislative council is directed to change the phrase “base education payment” wherever it may appear in the Vermont Statutes Annotated to “base education amount.”

* * * School Construction Spending; Planning for Merger; Tuition;
Programs for At-Risk Students; 21st Century After-School Programs * * *

Sec. 20. 16 V.S.A. § 4001(6) is amended to read:

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) which is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental fund raising, federal funds, nongovernmental grants, or other state funds such as special education funds paid under chapter 101 of this title.

(A) For purposes of determining whether a proposed budget shall be presented by means of a divided question pursuant to subdivision 563(11)(A) of this title, “education spending” shall not include:

(i) Spending during the budget year for approved school capital construction for a project that received preliminary approval under section 3448 of this title, including interest paid on the debt; provided the district shall not be reimbursed or otherwise receive state construction aid for the approved school capital construction.

(ii) For a project that received final approval for state construction aid under chapter 123 of this title:

(I) Spending for approved school capital construction during the budget year that represents the district's share of the project, including interest paid on the debt;

(II) Payment during the budget year of interest on funds borrowed under subdivision 563(21) of this title in anticipation of receiving state aid for the project.

(iii) For a district that provides for the education of its resident pupils in one or more grades by paying tuition and does not maintain a school that includes the grade or grades, in the district's discretion, the district's anticipated spending for tuition in the year for which the budget is proposed; alternatively, the district may choose to include within its definition of "education spending" its estimated tuition expenditures for the budget year.

(iv) Spending attributable to the cost of planning the merger of a small school, which for purposes of this subdivision means a school with an average grade size of 20 or fewer students, with one or more other schools.

(v) Spending attributable to the district's share of spending for 21st Century Community Learning Centers after-school programs.

(vi) Spending during the budget year attributable to the costs of providing alternative educational opportunities designed to encourage at-risk high school students to remain enrolled in and to graduate from high school, whether offered by the district or a contracting entity.

(B) For purposes of calculating excess spending pursuant to subdivision 5401(12) of Title 32, "education spending" shall not include:

(i) Spending during the budget year for approved school capital construction for a project that received preliminary approval under section 3448 of this title, including interest paid on the debt; provided the district shall not be reimbursed or otherwise receive state construction aid for the approved school capital construction.

(ii) For a project that received final approval for state construction aid under chapter 123 of this title:

(I) Spending for approved school capital construction during the budget year that represents the district's share of the project, including interest paid on the debt;

(II) Payment during the budget year of interest on funds borrowed under subdivision 563(21) of this title in anticipation of receiving state aid for the project.

(iii) Spending attributable to the cost of planning the merger of a small school, which for purposes of this subdivision means a school with an average grade size of 20 or fewer students, with one or more other schools.

* * * Higher Education * * *

Sec. 21. 6 V.S.A. § 20 is added to read:

§ 20. VERMONT LARGE ANIMAL VETERINARIAN EDUCATIONAL
LOAN REPAYMENT FUND

(a) There is created a special fund to be known as the Vermont large animal veterinarian educational loan repayment fund that shall be used for the purpose of ensuring a stable and adequate supply of large animal veterinarians throughout the state. The fund shall be established and held separate and apart from any other funds or monies of the state and shall be used and administered exclusively for the purpose of this section. The money in the fund shall be invested in the same manner as permitted for investment of funds belonging to the state or held in the treasury.

(b) The fund shall consist of:

(1) Sums appropriated or transferred to it from time to time by the general assembly, the state emergency board, or the joint fiscal committee when the general assembly is not in session.

(2) Interest earned from the investment of fund balances.

(3) Sums from any other public or private source accepted for the benefit of the fund.

(c) The agency shall administer the fund and make sums available for loan repayment awards. The agency may contract with a Vermont nonprofit entity for administration of the program, which shall administer awards in compliance with the requirements of Section 108(f) of the Internal Revenue Code.

Sec. 22. LARGE ANIMAL VETERINARIANS; EDUCATIONAL LOAN
REPAYMENT PROGRAM; PROPOSAL AND REPORT

(a) There is created a committee to explore the development of a loan repayment program to recruit and retain licensed veterinarians to meet the existing need for large animal veterinarians throughout the state. The committee shall also consider other incentives and outreach efforts to ensure that Vermonters are able to obtain the necessary education or training to work

in this field. The committee shall review available Vermont veterinarian workforce data and consider priorities and criteria on which to base awards. It shall develop recommendations for a loan repayment program, including details concerning the proposed application process. The committee shall identify potential funding sources.

(b) The members of the committee shall be:

(1) The secretary of agriculture, food and markets or the secretary's designee, who shall serve as chair and shall call the first meeting of the committee on or before July 1, 2009.

(2) The Vermont state veterinarian or the state veterinarian's designee.

(3) The president of the Vermont veterinary medical association or the president's designee.

(4) The secretary of commerce and community development or the secretary's designee.

(5) A member of the Vermont workforce development council to be selected by the governor.

(6) A representative of the higher education community to be jointly selected by the speaker of the house and the senate committee on committees.

(7) The director of the area health education centers program of the University of Vermont or the director's designee.

(8) The president of the Vermont student assistance corporation or the president's designee.

(c) On or before December 1, 2009, the committee shall present a detailed proposal to the senate and house committees on education and on agriculture outlining recommendations designed to promote the purposes of this section.

Sec. 23. EDUCATIONAL LOAN REPAYMENT; 2009 INTERIM

(a) If private funds are deposited into the Vermont large animal veterinarian educational loan repayment fund created in Sec. 21 of this act before a loan repayment program is developed and implemented under Sec. 22 of this act, then notwithstanding any provision of law to the contrary, the secretary of agriculture, food and markets may use the money to repay a portion of the outstanding educational loans of one or more licensed veterinarians in exchange for the service commitment to work in the large animal veterinary field in Vermont for a defined number of years, which shall be defined by contract; provided the secretary shall not divulge the identity of the private source or sources of funding to the award recipient. The secretary may enter into a contract with an entity, such as the area health education

centers program of the University of Vermont, to help administer the provisions of this section, and may pay the entity for its administrative costs from fund monies. Payment of awards shall be made directly to the educational loan creditor of the award recipient and shall be available only to a veterinarian who:

(1) Is licensed in Vermont;

(2) Provides large animal veterinarian services in Vermont; and

(3) Has outstanding educational debt acquired in the pursuit of an undergraduate or graduate degree from an accredited college or that exceeds the amount of the loan repayment award.

(b) For purposes of this section, "large animal veterinarian" means a doctor of veterinary medicine accredited by the United States Department of Agriculture who spends at least 60 percent of his or her working veterinary hours in Vermont treating or otherwise servicing food animals, including beef or dairy cows, sheep, pigs, poultry, and others identified by the secretary.

(c) The secretary shall report to the senate and house committees on education and on agriculture regarding:

(1) Private monies received under subsection (a) of this section, within 14 days after receiving the money.

(2) The decision to make some or all of the private monies available for educational loan repayment under this section and the criteria on which the award decisions will be made, at least 14 days prior to announcing publicly the availability of the funds.

(3) The payment of awards, within 14 days after making payment to the creditor of the award recipient.

(d) This section shall take effect on passage and shall remain in effect until June 30, 2010.

* * * Adequate Yearly Progress * * *

Sec. 24. Secs. 13 and 14 of No. 182 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 35 of No. 154 of the Acts of the 2007 Adj. Sess. (2008) are further amended to read:

~~Sec. 35. Secs. 13 and 14 of No. 182 of the Acts of the 2005 Adj. Sess. (2006) are amended to read:~~

Sec. 13. Sec. 2 of No. 64 of the Acts of 2003, as amended by Sec. 4 of No. 114 of the Acts of the 2003 Adj. Sess. (2004), is amended to read:

Sec. 2. COMPLIANCE WITH FEDERAL REQUIREMENTS; MEASURING

ADEQUATE YEARLY PROGRESS TOWARD ACHIEVING
STATE STANDARDS; CONSEQUENCES

16 V.S.A. § 165 authorizes the commissioner of education to determine how well schools and students are meeting state standards every two years and to impose certain consequences if schools are failing to meet standards after specific time periods. Notwithstanding the provisions of that section, in order to comply with the provisions of Public Law 107-110, known as the No Child Left Behind Act of 2001, ~~during school years 2003-2004 through 2008-2009~~ as amended from time to time (the "Act"), while it is in effect, the commissioner is authorized to determine whether schools and school districts are meeting state standards annually and the state board of education is authorized to impose on schools and school districts consequences allowed in state law and required by the Act within the time frame required in the Act. However, consistent with Title IX, Part E, Subpart 2, Sec. 9527 of the No Child Left Behind Act, neither the state nor any subdivision thereof shall be required to spend any funds or incur any costs not paid for under the Act in order to comply with the provisions of the Act. The state or any subdivision thereof may expend other funds for activities they were already conducting consistent with the Act, or for activities authorized in a state or local fiscal year 2004 budget. It is the intent of the general assembly to continue to study the provisions of the federal law and to seek guidance from the federal government in order to determine permanent changes to Title 16 that will be necessary to comply with federal law and to avoid having federal law cause state and local governments to absorb the cost of unfunded mandates.

Sec. 14. Subsections (b), (c), and (e) of Sec. 3 of No. 64 of the Acts of 2003, as amended by Sec. 5 of No. 114 of the Acts of the 2003 Adj. Sess. (2004), are amended to read:

(b) Notwithstanding the provisions of 16 V.S.A. §§ 1075(e), 1093, and 1128(b) which stipulate that a child of parents who become homeless shall be educated in the school district in which the child is found and that a school district may choose not to accept nonresident pupils, in order to comply with the provisions of Public Law 107-110, known as the No Child Left Behind Act of 2001, as amended from time to time (the "Act"), the provisions of this section shall apply to children who are homeless during ~~school years~~

~~2003-2004 through 2008-2009~~ those school years in which the Act is in effect. It is the intent of the general assembly to continue to study the provisions of the federal law and to seek guidance from the federal government in order to determine permanent changes to Title 16 that will be necessary to comply with federal law.

(c) If a child becomes homeless during a school year ~~2005-2006~~,

~~2006-2007, 2007-2008, or 2008-2009~~ in which the Act is in effect, the child shall either be educated: in the school of origin for the duration of the homelessness or for the remainder of the academic year if the child becomes permanently housed outside the district of origin; or in the school district in which the child is actually living. The determination as to which school the child shall attend shall be made by the school board of the school district in which the child is living according to the best interests of the child.

(e) Notwithstanding the provisions of 16 V.S.A. § 4001(1)(A) which stipulate that a pupil must be a legal resident of the district attending a school owned and operated by the district in order to be counted in the average daily membership of the district, during the ~~2003-2004 through 2008-2009~~

school years in which the Act is in effect, a child who is homeless during the census period shall be counted in the school district or districts in which the child is enrolled. However, if at any time a homeless child enrolls, pursuant to this section, in a school district other than the district in which the child was counted, the district in which the child is enrolled shall become responsible for the education of the child, including payment of education services and, if appropriate, development and implementation of an individualized education plan.

* * * Miscellaneous * * *

Sec. 25. WAIVERS; SCHOOL QUALITY STANDARDS

(a) The general assembly:

(1) Is committed to promoting the flexibility needed to transform Vermont's educational system.

(2) Takes notice of the state board of education rule enabling school boards to request and, under circumstances protecting school quality, obtain variances from school quality standards.

(3) Authorizes the commissioner of education to act directly on a variance request, if the state board of education fails to render a decision at its first regularly scheduled meeting following receipt of a request for a variance.

(4) Encourages school district and supervisory union boards to request variances pursuant to subdivision (2) of this subsection.

(b) On or before March 1, 2010, the commissioner shall report to the senate and house committees on education regarding variances requested and granted under this section. The report shall highlight innovative approaches for which variances were granted and describe the manner in which the commissioner has informed other districts and supervisory unions of these innovations.

Sec. 26. 33 V.S.A. § 3502 is amended to read:

§ 3502. CHILD CARE FACILITIES; SCHOOL AGE CARE IN PUBLIC SCHOOLS; 21ST CENTURY FUND

(a) Unless exempted under subsection (b) of this section, a person shall not operate a child care facility without a license, or operate a family child care home without registration from the department.

(b) The following persons are exempted from the provisions of subsection (a) of this section:

* * *

(5) An after-school program that serves students in one or more grades from kindergarten through secondary school, that receives funding through the 21st Century Community Learning Centers program, and that is overseen by the department of education, unless the after-school program asks to participate in the child care subsidy program.

* * *

~~(g) In order to facilitate school districts and supervisory unions to apply for and receive federal funds provided by the United States 21st Century Fund, on or before September 1, 2001, the agency of human services for programs that are in and operated by public schools and provide schoolage care before and after school hours shall:~~

~~(1) Accept existing permits and certificates obtained and plans developed by the school as satisfying licensing requirements without further application or review, including permits, certificates, and plans relating to water and wastewater disposal permit, asbestos abatement, insurance, and occupancy.~~

~~(2) Waive compliance with No. 165 of the Acts of 1996 or No. 37 of the Acts of 1997 relating to the abatement of lead paint hazards if the program serves no children who are less than five years old.~~

~~(3) Require screening of all program staff members against the child abuse registry, and require a criminal records check of any program staff member who is not currently a school employee or an employee of a school contractor already subject to a criminal record check as part of the hiring process.~~

* * *

Sec. 27. CODIFY EXISTING SESSION LAW RELATING TO REGIONAL SCHOOL CHOICE FOR PUBLIC SCHOOL STUDENTS IN GRADES 9 THROUGH 12

Pursuant to its statutory revision authority in 2 V.S.A. § 424, the legislative council is directed to codify Secs. 1 and 2 of No. 150 of the Acts of the 1999 Adj. Sess. (2000) (regional school choice for public school students in grades 9 through 12) as amended by Sec. 21 of No. 182 of the Acts of the 2005 Adj. Sess. (2006) (repealing the date on which the original act was scheduled to be repealed). Act 150, as amended, shall be codified as 16 V.S.A. §§ 1621–1622 in a new chapter 41 entitled “Chapter 41. Public High School Choice.”

* * *

Sec. 28. REPEAL

Secs. 2 and 3 of No. 31 of the Acts of 2007 (statewide calendar; committee; effective date) are repealed.

Sec. 29. UPDATING STATUTES TO REFLECT CURRENT NAMES OF PROGRAMS AND DEPARTMENTS

Pursuant to its statutory revision authority in 2 V.S.A. § 424, the legislative council is directed to amend Title 16:

(1) By replacing the term “adult basic education” with the term “adult education and literacy” wherever it appears.

(2) By updating references to the names of departments, divisions, programs, and other subgroups within the agency of human services wherever they appear.

Sec. 30. REPEAL

(a) Sec. 17 of No. 66 of the Acts of 2007 (using a 40-day census period for calculating average daily membership) is repealed.

(b) Sec. 18(b) of No. 66 of the Acts of 2007 (effective date for Sec. 17 of No. 66 of 2007) is repealed.

Sec. 31. 16 V.S.A. § 1422 is amended to read:

§ 1422. TESTS PERIODIC HEARING AND VISION SCREENING; GUIDELINES

~~(a) Each year the superintendent shall cause a qualified person to test the hearing of all the pupils under his supervision in grades 1, 2, 3, 5, 7, and 9, using tests recommended by the state department of education in consultation with the department of health, and to keep a record of such tests according to the instructions furnished and to notify in writing the person having legal responsibility for a pupil who is found to have defective hearing. All aspects of hearing testing and hearing conservation programs shall be under the supervision and regulation of the commissioners of education and health.~~

~~(b) The superintendent shall also cause a qualified person to test the vision of all pupils under his supervision in grades 1, 3, 5, 7, and 9 or 10, each year, using tests recommended by the state department of education in consultation with the department of health, and to keep a record of such tests according to the instructions furnished and to notify in writing the person having legal responsibility for a pupil who is found to have defective vision.~~

~~(c) The superintendent shall also cause to be tested the sight and hearing of any pupil who appears to have defective vision or hearing, at any time there appears to be a need for such test.~~

~~(d) [Repealed.]~~

~~(e) No child shall be obliged to submit to any test referred to in this section whose parent or guardian objects to the same in writing. Said written notice shall be delivered to the child's teacher or to any person who orders or conducts such test or tests.~~

Periodic hearing and vision screening of school-aged children shall be conducted by school districts and primary care providers pursuant to research-based guidelines developed by the commissioner of health in consultation with the commissioner of education. School districts and primary care providers will attempt to avoid duplicating services provided by the other and will share information as practicable and allowable by law.

* * * Teen Parent Education Programs * * *

Sec. 32. 16 V.S.A. § 11(a)(28)(C) is amended to read:

~~(C) a pregnant or postpartum pupil attending school at an approved education program in a residential facility or outside the school district of residence pursuant to subsection 1073(b) of this title.~~

Sec. 33. 16 V.S.A. § 11(a)(33), (34), and (35) are added to read:

(33)(A) "Pregnant or parenting pupil" means a legal pupil of any age who is not a high school graduate and who:

(i) is pregnant; or

(ii) has given birth, has placed a child for adoption, or has experienced a miscarriage, if any of these has occurred within one year before the public or approved independent school or the approved education program receives a request for enrollment or attendance; or

(iii) is the parent of a child.

(B) "Pregnant or parenting pupil" does not include a person whose parental rights have been terminated, except if the pupil has placed the child for adoption or has voluntarily relinquished parental rights, within one year

before the public or approved independent school or the approved education program receives a request for enrollment or attendance.

(34) “Approved education program” means a program that is evaluated and approved by the state board pursuant to written standards, that is neither an approved independent school nor a public school, and that provides educational services to one or more pupils in collaboration with the pupil’s or pupils’ school district of residence. An “approved education program” includes an “approved teen parent education program.”

(35) “Teen parent education program” means a program designed to provide educational and other services to pregnant pupils or parenting pupils or both.

Sec. 34. 16 V.S.A. § 1073(b) is amended to read:

(b) Access to school.

(1) Right to a public education. No legal pupil attending school at public expense, including a married, pregnant, or ~~postpartum~~ parenting pupil, shall be deprived of or denied the opportunity to participate in or complete an elementary and secondary a public school education.

(2) Right to enroll in a public or independent school. Notwithstanding the provisions of sections 822 and 1075 of this title, ~~for reasons related to the pregnancy or birth,~~ a pregnant or ~~postpartum~~ parenting pupil may attend enroll in any approved public school in Vermont or an adjacent state, any approved independent school in Vermont, or any other educational program approved by the state board in which any other legal pupil in Vermont may enroll.

(3) Teen parent education program.

(A) Residential teen parent education programs. The commissioner shall pay the educational costs for a pregnant or ~~postpartum~~ parenting pupil attending a state board approved educational teen parent education program in a 24-hour residential facility for up to eight months after the birth of the child. The commissioner may approve extension of payment of educational costs based on a plan for reintegration of the student into the community or for exceptional circumstances as determined by the commissioner. The district of residence of a pupil in a 24-hour residential facility shall remain responsible for coordination of the pupil’s educational program and for planning and facilitating her subsequent educational program.

(B) Nonresidential teen parent education programs.

(i) The pregnant or parenting pupil’s district of residence or the approved independent or public school to which that district pays tuition for its students (“the enrolling school”) shall be responsible for planning,

coordinating, and assessing the enrolled pupil's education plan while attending a teen parent education program and for planning, assessing, and facilitating the pupil's subsequent education plan, including the pupil's transition back to the public or approved independent school. As determined by the district of residence or the enrolling school, as appropriate, the pupil's educational plan while attending a teen parent education program shall include learning experiences that are the substantial equivalent of the learning experiences required by the district of residence or the enrolling school to obtain a high school diploma.

(ii) A pregnant or parenting pupil may attend a nonresidential teen parent education program for a length of time to be determined by agreement of the pupil's district of residence, the enrolling school, the teen parent education program, and the pupil.

(iii) In the event of a dispute regarding any aspect of this subdivision (B), the district of residence, the enrolling school, the teen parent education program, or the pupil or any combination of these may request a determination from the commissioner whose decision shall be final; any determination by the commissioner regarding "substantial equivalency" pursuant to subdivision (i) of this subdivision (b)(3)(B) shall be based on the commissioner's analysis of the course syllabus or the course description provided by the district of residence or enrolling school.

Sec. 35. 16 V.S.A. § 1121 is amended to read:

§ 1121. ATTENDANCE BY CHILDREN OF SCHOOL AGE REQUIRED

A person having the control of a child between the ages of six and 16 years shall cause the child to attend a public school, an approved or recognized independent school, an approved education program, or a home study program for the full number of days for which that school is held, unless the child:

* * *

Sec. 36. CONFORMING LANGUAGE

To ensure consistency of No. 192 of the Acts of the 2007 Adj. Sess. (2008) with this act, the following amendments shall be made to Sec. 5.304.1 of that act:

(1) In subdivision (a)(2), by striking the word "coordinating" and inserting in lieu thereof the following: "planning, coordinating, and assessing".

(2) In subdivision (a)(2), after the word "planning" and before the words "and facilitating" by adding the following: ", assessing,".

(3) In subdivision (b)(3), by striking the final sentence.

Sec. 37. TRANSITIONAL PROVISION

It is the intent of the general assembly that until July 1, 2010, a teen parent education program that has been recognized by the department for children and families shall be considered “an approved education program.”

Sec. 38. Sec. 9.0001(d) of No. 192 of the Acts of the 2007 Adj. Sess. (2008) (sunset; teen parent education) is amended to read:

(d) Sec. 5.304.1 of this act shall take effect on July 1, 2008 ~~and shall remain in effect until July 1, 2009.~~

* * *High School Completion; Policy * * *

Sec. 39. ONE HUNDRED PERCENT BY 2020 INITIATIVE; POLICY

It is a priority of the general assembly and the department of education to take all necessary measures to increase the Vermont secondary school completion rate to 100 percent by the year 2020.

* * * Early Identification of Students Who Require Additional Assistance to Successfully Complete Secondary School * * *

Sec. 40. 16 V.S.A. chapter 99 is amended to read:

CHAPTER 99. GENERAL POLICY

§ 2901. SUCCESS FOR ALL STUDENTS IN THE GENERAL EDUCATION ENVIRONMENT

(a) It is the policy of the state that each local school district develop and maintain, in consultation with parents, a comprehensive system of education that will result, to the extent appropriate, in all students succeeding in the general education environment. A comprehensive system of education includes a full range of services and accommodations ~~which~~ that are needed by students in the district. These services could include a separate alternative program if the district finds that some of its students could be better served in an environment outside the classroom, or if the district finds that separate placement is the best way to provide services to a student who is disrupting the class or having difficulty learning in a traditional school setting for educational, emotional, or personal reasons and thereby impairing the ability of the classroom teacher to provide quality services to that student or to ~~the other pupils~~ students. This chapter does not replace or expand entitlements created by federal law, nor is it the intent of this chapter to create a higher standard for maintaining a student in the general classroom than the standard created in the following federal laws: 20 U.S.C. § 1401 et seq., Individuals with Disabilities Act; 29 U.S.C. § 794, Section 504 of the Rehabilitation Act; and 42 U.S.C. § 12101 et seq., Americans with Disabilities Act.

(b) [Repealed.]

(c) No individual entitlement or private right of action is created by this section.

§ 2902. EDUCATIONAL SUPPORT SYSTEM AND EDUCATIONAL SUPPORT TEAM

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain an educational support system for ~~children~~ students who require additional assistance in order to succeed or to be challenged in the general education environment. For each school it maintains, a school district board shall assign responsibility for developing and maintaining the educational support system either to the superintendent pursuant to a contract entered into under section 267 of this title; or to the principal. The educational support system shall, at a minimum, include an educational support team and a range of support and remedial services, including instructional and behavioral interventions and accommodations.

(b) The educational support system shall:

(1) Be integrated to the extent appropriate with the general education curriculum.

(2) Be designed to increase the ability of the general education system to meet the needs of all students.

(3) Be designed to provide students the support needed regardless of eligibility for categorical programs.

(4) Provide clear procedures and methods for ~~handling a student who~~ addressing student behavior that is disruptive to the learning environment and ~~shall include provision of~~ educational options, support services, and consultation or training for staff where appropriate. Procedures may include ~~provision for~~ removal of ~~the~~ a student from the classroom or the school building for as long as appropriate, consistent with state and federal law and the school's policy on student discipline, ~~and~~ after reasonable effort has been made to support the student in the regular classroom environment.

(5) Ensure collaboration with families, community supports, and the system of health and human services.

(c) ~~Each educational support system shall include an~~ The educational support team which for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

(1) ~~Provide a procedure for timely referral for evaluation for special~~

~~education eligibility when warranted~~ Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the commissioner, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition.

~~(2) Be composed of staff from a variety of teaching and support services positions~~ Identify the classroom accommodations, remedial services, and other supports that have been provided to the identified student.

~~(3) Screen referrals to determine what classroom accommodations and remedial services have been tried.~~

~~(4) Assist teachers in planning and providing~~ to plan for and provide services and accommodations to students in need of classroom supports or enrichment activities.

~~(4) Develop an individualized strategy, in collaboration with the student's parents or legal guardian whenever possible, to assist the identified student to succeed in school and to complete his or her secondary education.~~

(5) Maintain a written record of its actions.

~~(6) Report no less than annually to the commissioner, in a form the commissioner prescribes, on the ways in which the educational support system has addressed the needs of students who require additional assistance in order to succeed in school or to complete secondary school and on the additional financial costs of complying with this subsection (c).~~

(d) No individual entitlement or private right of action is created by this section.

(e) The commissioner shall establish guidelines for teachers and administrators in following federal laws relating to provision of services for children with disabilities and the implementation of this section.

(f) It is the intent of the general assembly that a gifted and talented student shall be able to take advantage of services that an educational support team can provide. It is not the intent of the general assembly that funding under chapter 101 of this title shall be available for a gifted and talented student unless the student has been otherwise determined to be a student for whom funding under that chapter is available.

§ 2903. PREVENTING EARLY SCHOOL FAILURE; READING INSTRUCTION

(a) Statement of policy. The ability to read is critical to success in learning.

Children who fail to read by the end of the first grade will likely fall further behind in school. The personal and economic costs of reading failure are enormous both while the student remains in school and long afterward. All students need to receive systematic reading instruction in the early grades from a teacher who is skilled in teaching reading through a variety of instructional strategies that take into account the different learning styles and language backgrounds of the students. Some students may require intensive supplemental instruction tailored to the unique difficulties encountered.

(b) Foundation for literacy. The state board of education, in collaboration with the agency of human services, higher education, literacy organizations, and others, shall develop a plan for establishing a comprehensive system of services for early education in the first three grades to ensure that all students learn to read by the end of the third grade. The plan shall be ~~submitted to the general assembly by January 15, 1998 and shall be updated at least once every five years~~ following its initial submission in 1998.

(c) Reading instruction. A public school ~~which~~ that offers instruction in grades one, two, or three shall provide highly effective, research-based reading instruction to all students. In addition, ~~for a school shall provide:~~

(1) Supplemental reading instruction to any enrolled student in grade four whose reading performance falls below the level expected in order to achieve third grade reading proficiency falls below third grade reading expectations, as defined under subdivision 164(9) of this title, the school shall work to improve the student's reading skills by providing additional research-based reading instruction to the student, and by providing support.

(2) Supplemental reading instruction to any enrolled student in grades 5-12 whose reading proficiency creates a barrier to the student's success in school.

(3) Support and information to parents and other family members legal guardians.

§ 2904. REPORTS

Annually, each superintendent shall report to the commissioner in a form prescribed by the commissioner, on the status of the educational support systems in each school in the supervisory union. The report shall describe the services and supports that are a part of the education support system, how they are funded, and how building the capacity of the educational support system has been addressed in the school action plans, and shall be in addition to the report required of the educational support team in subdivision 2902(c)(6) of this chapter. The superintendent's report shall include a description and

justification of how funds received due to Medicaid reimbursement under section 2959a of this title were used.

Sec. 41. 16 V.S.A. § 2959a(e) is amended to read:

(e) School districts shall utilize funds received under this section to pay for reasonable costs of administering the Medicaid claims process, and for prevention and intervention programs in grades pre-K through 12. The programs shall be designed to facilitate early identification of and intervention with children with disabilities and to ensure all students achieve rigorous and challenging standards adopted in the Vermont framework of standards and learning opportunities or locally adopted standards. A school district shall provide an annual written justification to the commissioner of education of the use of the funds. Such annual submission shall show how the funds' use is expressly linked to those provisions of the school district's action plan that directly relate to improving student performance. A school district shall include in its annual report the amount of the prior year's Medicaid reimbursement revenues and the use of Medicaid funds consistent with the purposes set forth in this subsection.

* * * High School Completion Program * * *

Sec. 42. 16 V.S.A. § 1049a is amended to read:

§ 1049a. HIGH SCHOOL COMPLETION PROGRAM

(a) In this section:

(1) “Graduation education plan” means a written plan leading to a high school diploma for a person who is 16 to 22 years of age, and has not received a high school diploma, and is not who may or may not be enrolled in a public or approved independent school. The plan shall define the scope and rigor of services necessary for the student to attain a high school diploma, and may describe educational services to be provided by a public high school, an approved independent high school, an approved provider, or a combination of these.

(2) “Approved provider” means an agency entity approved by the commissioner to provide educational services which may be counted for credit toward a high school diploma.

(3) “Contracting agency” means an agency that has entered into a contract with the department of education to provide adult education services in Vermont.

(b) ~~The commissioner shall assign~~ If a student person who wishes to work on a graduation education plan is not enrolled in a public or approved independent school, then the commissioner shall assign the prospective student

to a high school district, which shall be the district of residence whenever possible. ~~Upon assignment, the~~ The school district in which a student is enrolled or to which an non-enrolled student is assigned shall work with an agency which has entered into contract with the department of education to provide adult education services in Vermont the contracting agency and the student to develop a graduation education plan. The school district shall award a high school diploma upon successful completion of the plan.

(c) The commissioner shall reimburse, and net cash payments where possible, a ~~town school district, city school district, union school district, unified union school district, incorporated school district, or member school district of an interstate school district which~~ that has agreed to a graduation education plan in an amount:

(1) established by the commissioner for development of the graduation education plan and for other educational services typically provided by the assigned district or an approved independent school pursuant to the plan, such as counseling, health services, participation in ~~co-curricular~~ cocurricular activities, and participation in academic or other courses, provided this amount shall not be available to a district that provides services under this section to an enrolled student; and

(2) negotiated by the commissioner and the contracting agency ~~which has entered into contract with the department of education to provide adult education services in Vermont,~~ with the approved provider, for services and outcomes purchased from the approved provider on behalf of the student pursuant to the graduation education plan.

(d) On or before January 30 of each year, ~~beginning in 2008,~~ the commissioner shall report to the senate and house committees on education on the number of students participating in a graduation education plan, the number completing a plan, and the amount paid. The commissioner shall present the information organized by school district, approved independent school, and approved provider.

Sec. 43. HIGH SCHOOL COMPLETION PROGRAM; GRADUATION EDUCATION PLAN; GUIDELINES

(a) The graduation education plan for each 16- and 17-year-old student shall include services relevant to the student's goals, such as:

- (1) Career exploration.
- (2) Workforce training.
- (3) Workplace readiness training.

(4) Preparation for postsecondary training or education and transitioning assistance.

(b) The graduation education plan for each student who is 18 years of age or older should include services relevant to the student's goals, such as those listed in subsection (a) of this section.

(c) The commissioner shall develop and publish guidelines to assist in the implementation of this section.

* * * Commissioner of Education * * *

Sec. 44. MEASURING SECONDARY SCHOOL COMPLETION RATES

(a) On or before December 31, 2009, the commissioner of education shall develop an accurate, uniform, and reliable method for defining and measuring secondary school completion rates on a school-by-school basis, including appropriate cohort identification, and shall set benchmarks for assessing individual school performance relative to the goal of increasing the secondary school completion rate to 100 percent by the year 2020.

(b) On or before January 15 of each year through January 2020, the commissioner shall report to the senate and house committees on education regarding the state's progress in achieving the goal of a 100 percent secondary school completion rate. At the time of the report, the commissioner shall also recommend other initiatives, if any, to improve both graduation rates and secondary school success for all Vermont students.

(c) Annually through 2020, each school district operating one or more secondary schools shall report to the taxpayers at the time school budgets are presented for approval regarding the district's progress in achieving the goal of a 100 percent secondary school completion rate.

Sec. 45. FLEXIBLE PATHWAYS TO GRADUATION

On or before January 15, 2010,

(1) The commissioner of education shall evaluate the prevalence and efficacy of flexible practices and programs currently used by Vermont schools to identify and support students who require additional assistance or alternative methods to be successful in school or to complete secondary school and shall identify schools that need assistance to begin or enhance their practices.

(2) The commissioner of education shall develop and publish guidelines to assist school districts to identify and support elementary and secondary students who require additional assistance to succeed in school or who would benefit from flexible pathways to graduation. Such guidelines may include strategies such as:

(A) Targeted assistance, including individual tutoring, evidence-based literacy instruction, alternative and extended scheduling, and opportunities to earn necessary credits necessary to obtain a high school diploma.

(B) Flexible programs designed to provide each student identified under 16 V.S.A. § 2902(c) in Sec. 2 of this act with the supports and accommodations necessary to succeed in school and to complete secondary school with the education and skills critical for success after graduation. Examples of flexible program components include:

(i) The assignment of one or more adults from within the school community to provide continuity to the student.

(ii) The development of a personalized education plan or strategy by the student, the assigned adult or adults or another representative of the district, and the student's parents or legal guardian.

(iii) The opportunity to acquire knowledge and skills through applied or work-based learning opportunities.

(iv) The opportunity to participate in dual enrollment courses with tutorial support provided as needed.

(v) Assessments that allow the student to demonstrate proficiency by applying his or her knowledge and skills to tasks that are of interest to that student.

(3) The commissioner of education shall report to the senate and house committees on education regarding implementation of this section and recommend additional legislation, if any, necessary to ensure effective implementation by all school districts in Vermont.

* * * Truancy * * *

Sec. 46. TRUANCY

(a) On or before September 30, 2009, and in consultation and coordination with the executive director of the department of state's attorneys and sheriffs, interested judges of the Vermont district courts, and school district personnel, the commissioner of education shall develop and publish on the department of education's website comprehensive model truancy protocols consistent with the provisions of 16 V.S.A. chapter 25, subchapter 3, that confront truancy on a statewide, countywide, and supervisory unionwide basis and include the post-complaint involvement of both state's attorneys and the court system under 16 V.S.A. § 1127.

(b) On or before December 15, 2009, the commissioner shall propose to the house and senate committees on education any legislative amendments or additions necessary to implement the purposes of this section.

(c) The commissioner shall ensure that, on or before July 1, 2010, the supervisory unions in each county adopt truancy policies that are consistent with and carry forward the purposes of this section.

(d) On or before January 15, 2011, the commissioner shall report to the house and senate committees on education regarding implementation of this section.

Sec. 47. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

The board of each supervisory union shall:

* * *

(11) on or before June 30 of each year, adopt a budget for the ensuing school year; and

(12) adopt supervisory unionwide truancy policies consistent with the model protocols developed by the commissioner.

* * * Effective Dates * * *

Sec. 48. EFFECTIVE DATES; APPLICATION

(a) This act shall take effect on passage.

(b) Sec. 13 of this act, 16 V.S.A. § 826, shall apply to tuition rates established for the 2010–2011 academic year and after.

(c) Sec. 20 of this act shall apply to proposed school budgets for the 2010–2011 academic year and after.

(d) Sec. 38 of this act shall supersede and replace any other amendments enacted in this legislative session to the provision amended in Sec. 38.

Committee on the part of the Senate Committee on the part of the House

Sen. Robert A. Starr
Sen. William T. Doyle
Sen. Alice W. Nitka

Rep. Anne H. Mook
Rep. Peter Peltz
Rep. Gregory S. Clark

Which was considered.

Thereupon, **Rep. Donahue of Northfield** moved to postpone action on the bill until 4:30 today, which was agreed to.

**Rules Suspended; Report of Committee of Conference Considered;
Consideration Interrupted by Recess**

H. 445

On motion of **Rep. Komline of Dorset**, the rules were suspended and House bill, entitled

An act relating to capital construction and state bonding

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon the bill respectfully reported that it has met and considered the same and recommended that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Capital Appropriations * * *

Sec. 1. STATE BUILDINGS

The following sums are appropriated in total to the department of buildings and general services, and the commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the chairs of the senate committee on institutions and the house committee on corrections and institutions are notified before that action is taken. The individual allocations in this section are estimates only.

(1) Statewide, Americans with Disabilities Act (ADA) - for upgrades at the State Office Buildings in Newport: 100,000

(2) Statewide, building reuse and planning: 125,000

(3) Statewide, contingency: 500,000

(4) Statewide, major maintenance: 8,181,508

(5) Statewide, asbestos and lead abatement: 300,000

(6) Statewide, elevator repairs and upgrades: 150,000

(7) Statewide, physical security enhancements: 250,000

(8) BGS engineering and architectural project costs. It is the intent of the general assembly that labor and operating costs, such as engineering and

architectural costs, shall not be paid for from bonded funds in the future:

1,950,000

(9) Springfield, state office building retaining wall, phase 3: 150,000

(10) Middlesex, to complete the secretary of state and state archives vault addition: 6,800,000

(11) Bennington, 200 Veterans Drive. Demolish and design the rebuilding of the older section of the state office building, excluding the courthouse space; renovate the newer section of the building to house programs and services previously located in the building; and build four holding cells, a sally port, and two additional courtrooms without jury facilities for a total of four courtrooms: 8,000,000

(12) Newport, correctional facility roof replacement: 300,000

(13) Burlington, 32 Cherry St., HVAC Upgrades, phase 1: 500,000

(14) Burlington, 32 Cherry St., water intrusion repairs, phase 1: 825,000

(15) Sharon, welcome center, sidewalk repairs. Upon tearing up the sidewalk, the commissioner of buildings and general services shall determine if it was constructed according to design specifications and, if appropriate, shall ensure that the contractors fulfill any obligations to reconstruct or repair it:

250,000

(16) Rutland, multimodal garage trench drains 125,000

(17) Statewide, major maintenance at information centers 150,000

(18) Repair and replacement of slate roofs on historic state buildings in the Waterbury complex. The commissioner shall strive to employ as many tradespeople as possible: 250,000

Total Appropriation – Section 1 \$28,906,508

Sec. 2. ADMINISTRATION

The following sums are appropriated to the agency of administration for the projects described in this section:

(1) for the department of taxes for the Vermont Center for Geographic Information for an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping. The project shall be carried out pursuant to Sec. H.21 of H.441 of 2009: 100,000

(2) for the department of information and innovation as a match for federal funds for phase I of installation of a Medicaid and health care data

system to replace the access system that was installed in the 1980s:

1,720,000

Total Appropriation – Section 2

\$1,820,000

Sec. 3. HUMAN SERVICES

The following sums are appropriated in total to the department of buildings and general services for the agency of human services for the projects described in this section.

(1) Vermont state hospital, ongoing safety renovations. The commissioner of the department of buildings and general services shall work with the secretary of the agency of human services to utilize the existing space without costly renovations: 200,000

(2) Vermont state hospital, planning, design, and permitting for a 15-bed secure residential recovery facility in Waterbury: 500,000

(3) Vermont state hospital, to consider how to replace acute intensive psychiatric inpatient services provided by the current Vermont state hospital by building capacity to provide those functions at the Rutland Regional Medical Center (RRMC). The funds allocated under this subdivision shall not be used for the financial analysis obtained pursuant to Sec. 32(c) of this act. The funds may be encumbered upon completion of the financial analysis, provided that planning is not discontinued pursuant to Sec. 32(c)(4) of this act. Funds encumbered under this subdivision shall be used to match funds provided by the Rutland Regional Medical Center to continue planning for providing acute intensive inpatient services at the RRMC on a one-to-one basis: 250,000

(4) Health lab, for analysis, feasibility studies, adaptation of past plans, and development of conceptual designs to provide the basis for an agreement with the University of Vermont to co-locate the department of health laboratory with its Colchester research facility. However, no expenditures shall be made under this subdivision until the University of Vermont has signed a letter stating its intent to work with the state to co-locate a health laboratory at the Colchester facility: 350,000

(5) Corrections, continuation of suicide abatement project: 200,000

(6) Corrections, security upgrades: 180,000

Total Appropriation – Section 3

\$1,680,000

Sec. 4. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated to the department of buildings and general services for the agency of commerce and community development for the following projects:

(1) Major maintenance at historic sites statewide; provided such maintenance shall be under the supervision of the department of buildings and general services: 250,000

(2) Final state contribution to expand the visitors' center at the Calvin Coolidge state historic site in Plymouth Notch. The expansion is a joint project between the agency of commerce and community development and the Calvin Coolidge Memorial foundation, which has been awarded National Endowment for the Humanities Challenge Grant #CH5016, and the funds may be used as a match for that grant. The commissioner of finance and management may approve a request from the commissioner of buildings and general services for funds in anticipation of receipts of private donations for the Plymouth visitors' center project: 1,500,000

(b) The following sums are appropriated to the agency of commerce and community development for the following projects:

(1) Underwater preserves: 50,000

(2) Placement and replacement of roadside historic site markers: 15,000

Total Appropriation – Section 4 \$1,815,000

Sec. 5. EDUCATION

(a) The following is appropriated in total to the department of education for the purposes described in this section:

(1) To pay the balance owed for the following addition and renovation projects, up to:

(A) Brattleboro Union High and Area Middle schools;

(B) Hanover High School and Frances C. Richmond School in Hanover, N.H.;

(C) Williamstown Middle/High School;

(D) Saxtons River Elementary School in Rockingham;

(E) Central Elementary School in Rockingham; and

(F) Thatcher Brook Primary School in Waterbury: 2,426,916

(2) To pay one-third of the balance owed for the following addition, renovation, and consolidation projects, up to:

(A) Elm Hill School in Springfield;

(B) Union Street School in Springfield;

(C) Weathersfield Elementary and Middle Schools;

(D) Newport Town School; and

(E) Robinson Elementary School in Starksboro: 4,205,996

(3) To pay the balance owed for the following energy performance contracts, up to:

(A) Montpelier elementary, middle, and high schools;

(B) Milton elementary, junior, and senior high schools;

(C) Brattleboro elementary schools; and

(D) Neshobe School in Brandon: 390,480

(4) To pay the balance owed for the following biomass projects, up to:

(A) Camels Hump Middle School in Richmond; and

(B) Williamstown Middle/High School: 71,264

(5) To pay state aid for emergency school construction projects pursuant to subdivision 3448(a)(3)(A) of Title 16 which may arise during FY10, up to: 300,000

(6) To be divided evenly, along with any funds remaining after the projects listed in subdivisions (1)–(5) of this subsection have received funds, among the following for addition and renovation projects:

(A) Green Mountain Technology and Career Center in Hyde Park;

(B) Center for Technology in Essex Town; and

(C) North Country Career Center in Newport: 2,905,344

(b) The following is appropriated to the department of education for emergency shelters in schools paid pursuant to 16 V.S.A. § 3453a: 43,555

Total Appropriation – Section 5 \$10,343,555

Sec. 6. AUSTINE SCHOOL

The sum of \$227,937 is appropriated to the department of buildings and general services for the renovation of Holton Hall at the Austine School.

Total Appropriation – Section 6 \$227,937

Sec. 7. UNIVERSITY OF VERMONT

The sum of \$2,000,000 is appropriated to the University of Vermont for construction, renovation, or maintenance projects.

Total Appropriation – Section 7 \$2,000,000

 Sec. 8. VERMONT STATE COLLEGES

The sum of \$2,000,000 is appropriated to the Vermont State Colleges for major facility maintenance.

Total Appropriation – Section 8 \$2,000,000

Sec. 9. NATURAL RESOURCES

(a) The following sums are appropriated in total to the agency of natural resources for water pollution control projects:

(1) For existing projects, the Springfield loan conversion, chapter 120 administrative support, and feasibility study planning advances necessary to operate the ongoing program for grants to municipalities pursuant to chapter 55 of Title 10 (aid to municipalities for water supply, pollution abatement, and sewer separations) and chapter 120 of Title 24 (special environmental revolving fund): 475,000

(2) Municipal pollution control projects:

(A) Proctor for combined sewer overflow abatement: 160,000

(B) Enosburg Falls for combined sewer overflow abatement: 250,000

(C) St. Johnsbury for combined sewer overflow abatement: 240,000

(3) Interest on short-term borrowing associated with delayed grant funding for the Pownal project: 140,000

(4) For the Vermont environmental protection agency pollution control revolving fund: 19,433,000

(b) The following sums are appropriated in total to the agency of natural resources for the drinking water state revolving fund:

(1) for engineering, oversight, and program management: 275,000

(2) for the Vermont environmental protection agency drinking water revolving fund in fiscal year 2010: 19,500,000

(c) The following sums are appropriated in total to the agency of natural resources for the clean and clear program to accelerate the reduction of phosphorus discharges into Lake Champlain and other waters of the state:

(1) Ecosystem restoration and protection: 1,500,000

(2) Unregulated stormwater management: 200,000

(3) Phosphorus treatment at the Proctor aerated lagoon facility: 510,000

(d) The following sum is appropriated to the agency of natural resources for the state's year-two share of the federal match to conduct a three-year study of flood-control measures in the city of Montpelier. However, the state shall not enter into any commitment to pay for construction of flood control improvements without legislative approval: 142,000

(e) The following is appropriated to the Green Mountain Club, Inc. for the procurement in fee simple or by easement of properties along the Long Trail: 25,000

(f) The following sums are appropriated to the agency of natural resources for department of fish and wildlife projects described in this subsection. If possible, the secretary shall apply for ARRA funds for energy upgrades such as window replacement at the fish hatcheries, and shall report on any receipt of such funds to the senate committee on institutions and the house committee on corrections and institutions:

(1) Backup generators for the Bald Hill or the Bennington Filter Building, or both: 125,000

(2) Buck Lake Camp facilities improvement: 84,000

(3) For the Lake Champlain Walleye Association, Inc. to upgrade and repair the walleye rearing, restoration, and stocking infrastructure: 25,000

(4) Immediate biosecurity at several of the fish hatcheries: 83,000

(5) Fish production improvements at the Grand Isle and Bennington hatcheries: 181,000

(6) Long-term biosecurity at the Grand Isle fish hatchery: 269,000

(g) If more ARRA funds become available for pollution control, drinking water projects, or other natural-resource-related projects during fiscal year 2010, the secretary shall apply for them.

Total Appropriation – Section 9 \$43,617,000

Sec. 10. MILITARY

The following sums are appropriated in total to the department of the military for:

(1) Site acquisition for the combined northern field maintenance shop and Morrisville armory: 100,000

(2) Maintenance and renovations at state armories, including increased locker space at 12 armories, designs for latrines and ADA projects, ADA and sanitary facilities upgrades, and low roof design and construction at the Waterbury Armory 300,000

Total Appropriation – Section 10 \$400,000

Sec. 11. PUBLIC SAFETY

The following sums are appropriated in total to the department of buildings and general services for the department of public safety for:

(1) Complete construction of a new forensics lab in Waterbury:
2,057,821

(2) Design and construction of a new emergency operations center in Waterbury. This amount shall be used to match \$1,000,000 in federal funds for the project: 375,000

(3) Purchase of property, obtaining of permits, and design for the Brattleboro/Rockingham state police office: 650,000

Total Appropriation – Section 11 \$3,082,821

Sec. 12. FIRE SERVICE TRAINING

The following sums are appropriated for fire service training:

(1) To the department of public safety for the Vermont fire service training council for equipment for the VTC fire science degree program:

100,000

(2) To Vermont State Colleges as the state's financial contribution to the construction of a steel burn building at the Vermont Technical College campus in Randolph: 200,000

Total Appropriation – Section 12 \$300,000

Sec. 13. CRIMINAL JUSTICE TRAINING COUNCIL; PHASE I,

PROFESSIONAL RANGE DESIGN

(a) The sum of \$800,000 is appropriated to the department of buildings and general services for the Vermont Criminal Justice Training Council to:

(1) design and construct a new firing range; and

(2) purchase and locate a three-lane modular firing unit in Pittsford. The project shall be phased.

(b) Before finalizing design of the range, the commissioner shall consult with an experienced range consultant professional to ensure the project is optimally designed.

Total Appropriation – Section 13 \$800,000

Sec. 14. AGRICULTURE, FOOD AND MARKETS

The following sums are appropriated in total to the agency of agriculture, food and markets for the purposes described in this section:

(1) For the best management practice implementation cost share program, to continue to develop best management practices on Vermont farms. Farmers participating in this program are eligible for cost share funds not to exceed \$75,000 or 80 percent of a project, whichever is less. For projects completed in calendar year 2009, cost share funds may be increased to 90 percent of a project. Projects completed after December 31, 2009 shall revert to cost share funding not to exceed \$75,000 or 80 percent of a project, whichever is less:

1,600,000

(2) For the agricultural buffer program, to install water quality conservation buffers

175,000

(3) For the agricultural fair capital projects competitive grants program. No single entity shall be awarded more than ten percent of this appropriation:

200,000

Total Appropriation – Section 14

\$1,975,000

Sec. 15. VERMONT PUBLIC TELEVISION

The sum of \$500,000 is appropriated to Vermont Public Television as the state match for the federally mandated legally required conversion of Vermont Public Television's facilities to digital format.

Total Appropriation – Section 15

\$500,000

Sec. 16. VERMONT INTERACTIVE TELEVISION

The sum of \$308,000 is appropriated to Vermont Interactive Television for video upgrades, monitor replacement, or any combination thereof, at Vermont Interactive Television sites.

Total Appropriation – Section 16

\$308,000

Sec. 17. VERMONT RURAL FIRE PROTECTION

The sum of \$100,000 is appropriated to the department of public safety, division of fire safety for the Vermont rural fire protection task force to continue the dry hydrant program.

Total Appropriation – Section 17

\$100,000

Sec. 18. VERMONT VETERANS' HOME

The following sums are appropriated to the department of buildings and general services for the Vermont Veterans' Home for the purposes described in this section:

<u>(1) Cost increase for Phase II of geothermal HVAC renovations:</u>	<u>600,000</u>
<u>(2) North wing roof replacement:</u>	<u>200,000</u>
<u>Total Appropriation – Section 18</u>	<u>\$800,000</u>

Sec. 19. VERMONT CENTER FOR CRIME VICTIM SERVICES

The sum of \$50,000 is appropriated to the Vermont Center for Crime Victim Services for Americans with Disabilities Act improvements at domestic violence shelters. The Vermont Center for Crime Victim Services shall file with the commissioner of buildings and general services an annual report, on or before December 1, 2009, which details the status of the improvements funded in whole or in part by state capital appropriations.

Total Appropriation – Section 19 \$50,000

Sec. 20. VERMONT INVESTMENT PROGRAM

(a) It is the intent of the general assembly to invest fiscal year 2010 funds to increase work opportunities and improve infrastructure. Therefore, the purpose of the Vermont investment program established in this section is to:

- (1) Employ Vermont tradespeople and artisans;
- (2) Help young Vermonters acquire marketable skills;
- (3) Improve Vermont state infrastructure; and
- (4) Improve local infrastructure and cultural facilities.

(b) The following sums are appropriated to the agency of natural resources for the department of forests, parks and recreation. To the extent possible, the commissioner of forests, parks and recreation shall involve the Vermont Youth Conservation Corps in the following initiatives. Funds shall be used for:

(1) A parks conservation corps program to stimulate economic activity, create employment opportunities, and improve trails, buildings, and other state park infrastructure through geographically dispersed construction and renovation projects in Vermont state parks. To the extent feasible, these funds shall be used to support small-scale projects being funded by resources made available through the American Recovery and Reinvestment Act of 2009 (ARRA), including a summer youth employment program in partnership with the department of labor. Projects may include construction of rustic cabins:

- | | |
|--|----------------|
| | <u>400,000</u> |
| <u>(2) Statewide, small-scale rehabilitation:</u> | <u>400,000</u> |
| <u>(3) Wastewater repairs and preventive improvements:</u> | <u>250,000</u> |

<u>(4) Infrastructure improvements:</u>	<u>1,000,000</u>
<u>(5) Energy conservation and alternative energy projects in state parks:</u>	<u>700,000</u>
<u>(6) Rehabilitation of CCC structures in state parks:</u>	<u>1,000,000</u>
<u>(7) Upgrade of restrooms and bathhouses in state parks:</u>	<u>1,000,000</u>
<u>(8) Upgrade of the ranger residence and headquarters at Woodford State Park:</u>	<u>250,000</u>
<u>(9) Upgrade and maintenance of Maidstone Road, and other forest highways with any funds remaining after the upgrade of Maidstone Road:</u>	<u>600,000</u>

(c) The following is appropriated to the Vermont housing and conservation board to support building of transitional housing for various populations such as victims of violence, people recently released from incarceration, and homeless people; for housing for people with particular needs such as housing with services for people with disabilities, those requiring treatment for substance abuse, or the elderly; and for improving downtown areas:
1,000,000

(d) The following is appropriated for the Vermont telecommunications authority to provide financial assistance for the purpose of expanding Vermont's mobile telecommunications and broadband infrastructure pursuant to Sec. 29 of this act. Of this amount, the authority shall use \$300,000 to provide a grant to two contiguous electric utilities in Orleans County which serve a combined total of less than 3,500 customers in Vermont, for a reliability project which includes 144 strands of middle mile fiber over subtransmission lines between substations where at least one substation is in an unserved area as defined in 30 V.S.A. § 8078(a)(1). The Vermont telecommunications authority shall own the completed fiber and be responsible for maintenance. The utilities shall provide pole attachment rights to the state for the fiber for 20 years and shall be entitled to use two strands of the fiber or the equivalent for utility communications purposes.
1,000,000

(e) The following sums are appropriated for building communities grants established in 24 V.S.A. chapter 137:

(1) To the agency of commerce and community development, division for historic preservation, for the historic preservation grant program:
200,000

(2) To the agency of commerce and community development, division for historic preservation, for the historic barns preservation grant program:

	<u>200,000</u>
<u>(3) To the Vermont council on the arts for the cultural facilities grant program:</u>	<u>200,000</u>
<u>(4) To the department of buildings and general services for the recreational facilities grant program:</u>	<u>200,000</u>
<u>(5) To the department of buildings and general services for the human services and educational facilities competitive grant program:</u>	<u>200,000</u>
<u>Total Appropriation – Section 20</u>	<u>\$8,600,000</u>

* * * Financing this Act * * *

Sec. 21. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

The following sums are reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 of this act:

<u>(1) of the amount appropriated in Sec. 253(4) of No. 152 of the Acts of the 1999 Adj. Sess. (2000) (Springfield Correctional Facility):</u>	<u>461.14</u>
<u>(2) of the amount appropriated in Sec. 14 of No. 61 of the Acts of 2001 (Pittsford Wastewater System):</u>	<u>216,933.98</u>
<u>(3) of the amount appropriated by Sec. 12(b) of No. 43 of the Acts of 2005 (Public Safety):</u>	<u>2,105.00</u>
<u>(4) of the amount appropriated by Sec. 13(c) of No. 52 of the Acts of 2007 (Public Safety and Fire Service Training Council):</u>	<u>14,520.70</u>
<u>(5) of the amount appropriated by Sec. 26 of No. 52 of the Acts of 2007 (Sale of condo unit, Newport State Office Building):</u>	<u>163,800.00</u>
<u>Total Reallocations and Transfers – Section 21</u>	<u>\$397,820.82</u>

Sec. 22. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The state treasurer is authorized to issue general obligation bonds in the amount of \$69,995,000 for the purpose of funding the appropriations of this act. The state treasurer, with the approval of the governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The state treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

69,995,000

(b) The following amount from ARRA clean water state revolving fund grants is hereby appropriated for use in FY10 and FY11 for projects funded

through the Vermont environmental protection agency pollution control revolving fund. Specific project spending shall be approved by a committee made up of the joint fiscal committee and the chairs of the senate committee on institutions and the house committee on corrections and institutions.

19,433,000

(c) The following amount from ARRA state drinking water capitalization grants is hereby appropriated for use in FY10 and FY11 for projects funded through the drinking water state revolving fund. Specific project spending shall be approved by a committee made up of the joint fiscal committee and the chairs of the senate committee on institutions and the house committee on corrections and institutions.

19,500,000

Total Revenues – Section 22

\$108,928,000

* * * General Authority * * *

Sec. 23. FEDERAL STIMULUS FUNDS; GENERAL AUTHORITY

(a) The head of any state agency or public body that receives funds under this act shall apply for ARRA funds if any are available for capital expenses. Any ARRA funds received for capital expenses shall be reported to the chair of the senate committee on institutions and the chair of the house committee on corrections and institutions pursuant to Sec. E.129 of the appropriations bill of 2009.

(b) The head of any state agency or public body that receives funds under this act is authorized to use funds appropriated under this act to apply for and match funds which may be available for capital construction under the ARRA.

* * * Buildings and General Services * * *

Sec. 24. DEPARTMENT OF BUILDINGS AND GENERAL SERVICES; AUTHORITY TO FUND PROJECTS AUTHORIZED IN PRIOR YEARS

(a) The commissioner of buildings and general services is authorized to use funds appropriated under this act for capital projects requiring additional support that were funded with capital or general appropriations made in prior years.

(b) In Sec. 14 of No. 61 of the Acts of 2001, the commissioner of buildings and general services received funds to build a sewer line to connect the Vermont criminal justice and Vermont fire service training council buildings to the Pittsford wastewater treatment system. At present, the state has determined that it is not prepared to make a decision on the sewer installation. Therefore, in Sec. 21(2) of this act, the general assembly has authorized reallocation of \$216,933.98 from the 2001 appropriation to the commissioner for other

building projects. The town enlarged the capacity of its plant to be able to accommodate the anticipated needs of the state. Therefore, it is the intent of the general assembly that the commissioner of buildings and general services shall negotiate a new agreement with the town of Pittsford regarding the sewer allocation and the state's obligation to the town of Pittsford.

Sec. 25. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a) Notwithstanding 29 V.S.A. § 166(b), the commissioner of buildings and general services is authorized to negotiate the sale of all or a portion of the state's property that adjoins the Hebard state office building in Newport City for the purposes of transferring ownership and operation of the bike path, walking path, and boardwalk. Upon approval of the chairs and vice chairs of the senate committee on institutions and the house committee on corrections and institutions, the commissioner may sell the property for the negotiated price. The commissioner shall strive to sell the property at fair market value. However, due to the unique nature of the transaction, the commissioner may use the following factors to justify selling the property at less than fair market value:

- (1) Ongoing maintenance and operation costs associated with the property.
- (2) Risk potential to the state.
- (3) The local economic situation.

(b) The commissioner of buildings and general services is authorized to purchase property in the Westminster vicinity for the purpose of locating the southeastern Vermont public safety facility.

(c) Notwithstanding Sec. 32(c) of No. 200 of the Acts of the 2007 Adj. Sess. (2008), and 29 V.S.A. § 166(b), the commissioner of buildings and general services is authorized to sell the real property commonly referred to as the "Former Tree Farm Property" and associated buildings located in the town and village of Essex in one or two parcels as follows: the commissioner may sell the portion which is in the town of Essex to the town of Essex and the portion which is in the village of Essex to the village of Essex or may sell the entire parcel to either the village or the town of Essex. Upon approval of the chairs and vice chairs of the senate committee on institutions and the house committee on corrections and institutions, the commissioner may sell the property for the negotiated price. The commissioner shall strive to sell the property at fair market value. However, due to the unique nature of the transaction, the commissioner may use the following factors to justify selling the property at less than fair market value:

(1) Ongoing maintenance and operation costs associated with the property.

(2) Risk potential to the state.

(3) The need to recover costs incurred by the state related to site development.

(d) The commissioner is authorized either to convert to other state use or to sell the building in Middlesex formerly leased to North American Playcare, Inc. if the commissioner is unable to enter into a lease with the Montessori school for a child care facility. If the commissioner sells the building, he or she shall follow the process of 29 V.S.A. § 166.

(e) Pursuant to 29 V.S.A. § 166(b), the commissioner of buildings and general services is authorized to subdivide land at the former Weeks school in Vergennes in order to sell the Arsenal and Fairbanks buildings. The commissioner may use proceeds from the sale to enhance the value of the remaining former Weeks school property.

(f) Notwithstanding 29 V.S.A. § 166(b), the commissioner of buildings and general services is authorized to sell the Dummerston library building. Upon approval of the chairs and vice chairs of the senate committee on institutions and the house committee on corrections and institutions, the commissioner may sell the property for the negotiated price. The commissioner shall strive to obtain fair market value. However, due to the unique nature of the transaction, the commissioner may use the following factors to justify selling the property at less than fair market value:

(1) Ongoing maintenance and operation costs associated with the property.

(2) Risk potential to the state.

(g) The commissioner of buildings and general services is authorized to sell the following properties pursuant to 29 V.S.A. § 166:

(1) Building 617 in Essex. The commissioner shall consult with the chair of the senate committee on institutions and the chair of the house committee on corrections and institutions prior to finalizing any sale.

(2) The Redstone building at 26 Terrace Street in Montpelier after the secretary of state has moved to another location.

(h) The commissioner of buildings and general services shall consider options for use and disposal of the following properties and shall present his or her analysis and recommendations to the senate committee on institutions and

the house committee on corrections and institutions on or before January 15, 2010:

(1) Father Logue's camp in Duxbury.

(2) 62 Pierpoint Avenue in Rutland.

(3) The house, barn, and land at the Northwest State Correctional Facility in St. Albans. At a minimum, the commissioner of buildings and general services shall consult with the commissioner of corrections to consider use of the buildings and property as transitional housing, a work farm associated with the correctional facility, or transitional housing, and to consider sale of the property for use as a working farm.

(i) In Sec. 32(d) of No. 200 of the Acts of the 2007 Adj. Sess. (2008), the general assembly authorized the commissioner of buildings and general services to sell, lease, subdivide, convert into condominiums, or any combination thereof the Thayer school building located at 1193 North Avenue in Burlington. The commissioner is hereby further authorized to transfer title by warranty deed for sale of the building and to convey the Thayer school property by warranty deed.

Sec. 26. CAPITAL CONSTRUCTION; WINDHAM COUNTY;
AUTHORITY TO BORROW

(a) Notwithstanding the provisions of 24 V.S.A. § 82, based on assertions by the Windham County assistant judges that the Windham County sheriff's office is in an unsafe condition and in immediate need of renovation and repair, the general assembly hereby authorizes the Windham County assistant judges to borrow up to \$200,000 for the purpose of renovating and restoring the Windham County sheriff's office pursuant to the budget adopted by the judges on January 16, 2009, without a further vote of the county electorate. However, at least 30 days prior to making a request for borrowing, the assistant judges shall notify the legislative bodies of the municipalities in the county that they intend to borrow. The judges may mortgage county property or obtain an unsecured loan for this purpose. Any project constructed pursuant to this section shall be completed within two years of passage of this act.

(b) It is the intent of the general assembly that the assistant judges shall not incur debt in future without following procedures of 24 V.S.A. § 82.

Sec. 27. 29 V.S.A. § 152(a)(33) is added to read:

(33) Accept grants of funds, equipment, and services from any source, including federal appropriations, for the installation, operation, implementation, or maintenance of energy conservation measures or improvements at state buildings, provided that the commissioner shall report

receipt of a grant under this subdivision to the chairs of the senate committee on institutions, the house committee on corrections and institutions, and the joint fiscal committee.

Sec. 28. 29 V.S.A. § 152(b) is amended to read:

(b) The commissioner of buildings and general services shall:

(1) Prior to transfer of unexpended balances between projects under the provisions of this section or another provision of law, ~~the commissioner shall~~ consult with the state treasurer and the commissioner of finance and management to determine that such transfer does not adversely affect the exclusion from gross income of the interest on the bonds from which such unexpended proceeds are derived, pursuant to Section 103 of the Internal Revenue Code of 1986 or any corresponding Internal Revenue Code section of the United States, as from time to time amended. The commissioner shall notify the state treasurer within 30 days of the postponement of any authorized projects for which bonds have been issued.

(2) Consult with the state treasurer regarding implementation of projects in each capital appropriations act, including the disposition of assets purchased with capital appropriations, with regard to satisfactory resolution of issues associated with legal and tax-exempt status of outstanding state bonds.

* * * Commerce and Community Development * * *

Sec. 29. VERMONT TELECOMMUNICATIONS AUTHORITY; MOBILE
TELECOMMUNICATIONS AND BROADBAND SERVICES

(a) The Vermont telecommunications authority shall use funds appropriated in Sec. 20(d) of this act as described in this section:

(1) To provide financial assistance for building infrastructure capable of delivering mobile telecommunications and broadband services pursuant to the authority granted in 30 V.S.A. § 8062(b)(2), and in accordance with the priorities established under 30 V.S.A. § 8077;

(2) To leverage funding from other sources, including funds available under the American Recovery and Reinvestment Act of 2009 (ARRA); and

(3) To use up to \$200,000 to fund the broadband development grant program created in Sec. 3 of No. 79 of the Acts of 2007.

(b) If the authority has an opportunity to use the appropriation to leverage funds, and if the funding source requires that the leveraged funds be used in a way that conflicts with subdivision (a)(1) of this section, the authority may accept and expend the funds upon approval of the joint fiscal committee, the chairs of the senate committees on institutions and on finance, and the chairs of

the house committees on corrections and institutions and on commerce and economic development.

(c) The authority shall consult with the state treasurer and the commissioner of finance and management regarding grants, loans, or any other disposition of these bonding-derived funds with regard to satisfactory resolution of issues associated with legal and tax-exempt status of outstanding state bonds.

* * * Human Services * * *

Sec. 30. VERMONT STATE HOSPITAL; REPLACEMENT

(a) It is the intent of the general assembly that expenditures for planning for replacement of the functions of the Vermont state hospital shall be directed toward meeting the conditions and requirements of the conceptual certificate of need issued by the department of banking, insurance, securities, and health care administration on April 12, 2007, and extended for 12 months, to expire on April 12, 2010.

(b) Prior to the submission of an application for a phase II certificate of need for construction of a facility to house a secure residential recovery program provided for in Sec. 31 of this act, the department of mental health shall develop a master plan to replace the functions now provided in the Vermont state hospital and to close the Vermont state hospital. The master plan shall include an adequate long-range perspective of the funding needs and sources such that the phase II review process for a secure residential recovery program will be able to:

(1) consider whether there will be an appropriate balance between the fiscal and other needs of current and future inpatient facilities and the fiscal and other needs of the community mental health system; and

(2) consider the state's financial ability to complete the master plan.

(c) While pursuing the secure residential facility as described in Sec. 31 of this act and the planning for acute mental health care in several hospitals geographically distributed throughout the state as provided for in Sec. 32 of this act, the department of mental health shall enter into discussions with general and specialty hospitals to explore options for hospital-level care for the remaining placements needed to close the Vermont state hospital.

(d) As part of its master plan to replace the Vermont state hospital, the department of mental health shall conduct a financial analysis and an analysis of the impact on care of the temporary return to inpatient care at staff-secure facilities.

Sec. 31. VERMONT STATE HOSPITAL; SECURE RESIDENTIAL RECOVERY PROGRAM

(a) It is the intent of the general assembly that the commissioner of mental health shall provide for a secure residential recovery program for individuals who are in the care and custody of the commissioner of mental health with a mental health disability for whom inpatient hospital treatment would be inappropriate and for whom other appropriate less-restrictive alternatives are not available. It is further the intent of the general assembly that the facility housing the program shall be designed to afford the greatest future flexibility for any potential residential health care program and shall be consistent with the goal of creating a facility with a residential character. In addition, both the site and design shall foster the ability to provide outdoor recreation, safety of residents and program participants, and appropriate programming to meet the needs of each of the several diagnostic groups to be served.

(b) Prior to further design development, the commissioner of mental health and the commissioner of buildings and general services shall fully investigate and analyze site options for locating the secure residential facility on the Waterbury campus and, in the discretion of the commissioner of buildings and general services, at other sites in Waterbury. The facility shall not be located next to the A-building. The facility design shall incorporate the necessary components to function as a freestanding program that does not rely on support space currently serving patient needs in the existing Vermont state hospital.

(c) It is the intent of the general assembly that the secure residential recovery program shall have a governance structure which is as separate and independent from the governance structure of the Vermont state hospital as is legally feasible and would be operated under a license to be issued by the department of disabilities, aging, and independent living (DAIL).

(d) DAIL shall amend by rule pursuant to chapter 25 of Title 3 the licensing requirements for therapeutic community residences to provide for the operation of secure residential recovery programs.

(e) At the time of filing a certificate of need (CON) letter of intent with the department of banking, insurance, securities, and health care administration, the agency of human services shall notify the Centers for Medicare and Medicaid Services (CMS) in writing that it is planning and developing a 15-bed residential program, with a description of its size, program, intended patient population, physical location relative to the existing state hospital, anticipated licensing, and anticipated governance structure. In addition, the agency shall request CMS to review the final plan to determine if federal financial participation under Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act would be available for the facility.

(f)(1) The agency of human services shall submit the response of CMS, if any, or the fact that CMS has not responded to the request, to the senate committee on institutions and the house committee on corrections and institutions, the senate and house committees on appropriations, the senate committee on health and welfare, the house committee on human services, the joint fiscal committee, and the mental health oversight committee.

(2) During the legislative session, the department of mental health shall provide quarterly updates to the senate committee on institutions, the house committee on corrections and institutions, the senate committee on health and welfare, and the house committee on human services on the progress toward completing the facility and developing the residential recovery program.

(3) Outside the legislative session, the department of mental health shall provide quarterly updates to the joint fiscal committee and the mental health oversight committee on the progress toward completing the facility and developing the residential recovery program.

(g) Within 30 days of beginning to accept patients in the secure residential recovery program, the department of health shall reduce the licensed bed capacity at the Vermont state hospital by 15.

Sec. 32. VERMONT STATE HOSPITAL; REPLACEMENT OF ACUTE CARE FUNCTIONS

(a) The general assembly recognizes that the Vermont state hospital provides both specialized and intensive acute inpatient mental health care. It is the intent of the general assembly that the plan for replacement of the functions of the Vermont state hospital shall provide geographic access such that patients requiring specialized acute mental health care or intensive acute mental health care or both can be appropriately treated as near to their respective homes as possible by providing replacement specialized and intensive inpatient levels of care in more than one hospital staffed with appropriately trained and experienced staff. Therefore, the commissioner of mental health shall work with general and specialty hospitals to explore options for replacement of these functions. Acute care facilities may be operated under one or more licenses issued to the department or to the hospitals, as appropriate.

(b) The commissioner of mental health shall design a special designation program for hospitals that operate an intensive acute or specialized acute inpatient program or both which will serve as a successor program to the Vermont state hospital and submit proposed enabling legislation for consideration in the 2010 legislative session. A special designation will be similar to the designation of community agencies to provide mental health and developmental disability services provided for in 18 V.S.A. chapter 207. The designation process shall, at a minimum:

(1) Provide for an ongoing, consistent, and predictable relationship between the specially designated hospital and the state.

(2) Allow the commissioner to establish a reasonable schedule of cost per service unit and a uniform and reasonable schedule of fees for services provided by the specially designated hospitals. Any grant of funds to any specially designated hospital shall be based on a program plan and program budget and a balanced plan of anticipated fees and receipts developed by the hospital and submitted to and approved by the commissioner.

(3) Establish minimum program standards and other regulations as may be necessary to ensure a quality program and care that is consumer-directed, trauma-informed, and recovery-oriented.

(c)(1) The department of mental health, in collaboration with the joint fiscal office, the treasurer's office, and the Vermont educational and health buildings finance agency, shall obtain an accounting and financial analysis of any proposed bonding structure, including costs of capitalization, to determine whether a financing arrangement that places no debt capacity burden on either the state or on Rutland Regional Medical Center (RRMC) is reasonably feasible for a new psychiatric wing at RRMC to replace and expand the existing psychiatric unit.

(2) The joint fiscal office may contract with an independent consultant to provide additional analysis, if needed, for the analysis required under subdivision (1) of this subsection. Upon request of the joint fiscal office, the commissioner of the department of buildings and general services shall transfer up to \$25,000 of unexpended funds appropriated to the department of buildings and general services in prior capital construction acts for Vermont state hospital planning to the joint fiscal office for this purpose.

(3) No later than October 1, 2009, the treasurer's office and the joint fiscal office shall provide a report to the mental health oversight committee and the joint fiscal committee describing the financing arrangement for a new psychiatric wing at RRMC and the results of the accounting and financial analysis, including their conclusions as to whether the financing arrangement is reasonably feasible.

(4) After receipt of the report and no later than November 1, 2009, the mental health oversight committee and the joint fiscal committee may object at a joint meeting of the two committees to the financing arrangement proposed by the department for a new psychiatric wing at RRMC. A quorum shall be a majority of the combined membership of the committees and, for voting purposes, a majority of those present shall be authorized to act. If the committees object, the department shall discontinue planning for a new psychiatric wing at RRMC.

(d) Simultaneously with any planning for expansion of psychiatric services at RRMC, including conducting the financial analysis under subdivision (c)(1) of this section and whether or not planning for the RRMC option is discontinued as provided for in subdivision (c)(4) of this section, the department shall continue to assess the feasibility, including the cost, of providing acute care services at general or appropriate specialized hospitals in other locations. As part of the planning process described in this subsection, the department shall obtain an independent labor analysis as necessary to demonstrate that a sufficient number of professional staff and other trained staff will be available to support adequately and appropriately any Vermont state hospital successor program at RRMC and at general or appropriate specialized hospitals in other locations being considered for provision of specialized acute or intensive acute care functions, or both, with respect to recruiting and maintaining staffing for any staff-intensive specialized psychiatric services required. The department of labor may provide the labor analysis provided for in this subsection. The commissioner of the department of buildings and general services shall transfer funds necessary for this study from unexpended funds appropriated to the department of buildings and general services in prior capital construction acts for Vermont state hospital planning to the department of mental health for this purpose.

(e) By January 15, 2010, the department shall propose any statutory changes it believes may be necessary for implementation of its master plan.

Sec. 33. Sec. 124d(e) of No. 65 of the Acts of 2007 is amended to read:

(e) For purposes of this section, the council shall cease to exist ~~on~~ when the development of the alternatives to the Vermont state hospital is completed, but no later than July 1, ~~2009~~ 2012.

* * * Corrections * * *

Sec. 34. 28 V.S.A. § 102(b)(16) is added to read:

(16) With the approval of the secretary of human services, to accept federal grants made available through federal crime bill legislation, provided that the commissioner shall report the receipt of a grant under this subdivision to the chairs of the senate committee on institutions, the house committee on corrections and institutions, and the joint fiscal committee.

Sec. 35. CORRECTIONS; HOUSING FOR INMATES AND DETAINEES;
COLLABORATION AMONG FEDERAL AND STATE
OFFICIALS; USE OF NORTHWEST STATE CORRECTIONAL
FACILITY

(a) The commissioner of corrections shall consult with the U.S. marshal to identify opportunities to collaborate to provide secure facilities that meet the

needs of federal, state, county, and municipal law enforcement officials regarding space for housing of inmates and detainees. The commissioner shall consider building a new facility with ARRA funds as well as the potential for reconfiguring the e-wing of the Northwest Regional Correctional Facility to house federal, state, county, and municipal inmates and detainees. The commissioner shall report to the corrections oversight committee by October 15, 2009.

(b) The commissioner of buildings and general services and the commissioner of corrections shall explore how to meet the need for a medium security and detainee facility in the northwest area of Vermont and report their findings to the corrections oversight committee on or before November 1, 2009.

* * * Vermont Telecommunications Authority * * *

Sec. 36. Sec. 42 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 42. REPEAL

Sec. 3 of No. 79 of the Acts of 2007, relating to a broadband development grant program, is repealed on ~~June 30, 2009~~ June 20, 2011.

* * * Natural Resources * * *

Sec. 37. 3 V.S.A. § 2822(e) is added to read:

(e) The secretary, with the approval of the secretary of administration, may transfer any unexpended funds appropriated in a capital construction act to other projects authorized in the same section of that act.

Sec. 38. 24 V.S.A. § 4753b is added to read:

§ 4753b. ACCEPTANCE OF FUNDS

(a) The commissioner of environmental conservation, with the approval of the secretary of natural resources, may accept federal grants made available through the federal Clean Water Act and the federal Drinking Water Act in accordance with this chapter. Acceptance of this grant money is hereby approved, provided all notifications are made under subsection 4760(a) of this title.

(b) The commissioner shall report receipt of a grant under this section to the chairs of the senate committee on institutions and the house committee on corrections and institutions and the joint fiscal committee.

Sec. 39. Sec. 8(a)(2) of No. 52 of the Acts of 1989, as amended by Sec. 18 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) and Sec. 32 of No. 29 of the Acts of 1999, is amended to read:

(2) That this conveyance shall be completed within ~~20~~ 30 years of the effective date of this act.

Sec. 40. POLLUTION CONTROL REVOLVING LOAN FUND;
DRINKING WATER REVOLVING FUND; LOAN
FORGIVENESS

(a) Upon awarding a loan to a municipality from the Vermont environmental protection agency pollution control revolving fund or the Vermont environmental protection agency drinking water state revolving fund, the secretary of the agency of natural resources may forgive up to 100 percent of the loan if the award is made from funds appropriated from the American Recovery and Reinvestment Act of 2009 (ARRA).

(b) Notwithstanding 10 V.S.A. § 1624a(b), the assistance provided by a loan from the Vermont environmental protection agency pollution control revolving fund made from ARRA funds may be for up to 100 percent of the eligible project cost.

(c) The secretary shall establish standards, policies, and procedures as necessary for implementing the provisions of this section and for revising standard priority lists in order to comply with regulations associated with the ARRA.

* * * Military * * *

Sec. 41. AUTHORITY TO TRANSFER FUNDS

The military department in the office of the adjutant general may transfer funds appropriated to it in this act to other projects authorized in the same section of the act.

Sec. 42. SALE OF NATIONAL GUARD PROPERTY IN LUDLOW

Notwithstanding 20 V.S.A. § 542, if the board of armory commissioners sells the armory and associated land in Ludlow to the town of Ludlow, it shall sell the property at the fair market value amount reduced by an amount equal to the current fair market value of any and all lands transferred or deeded to the state of Vermont by the town of Ludlow or the town school district of the Town of Ludlow for the establishment of the armory. The fair market value of the property shall be determined by a property appraisal conducted by a certified general appraiser retained by the town of Ludlow.

* * * Judiciary * * *

Sec. 43. JUDICIARY; CAPITAL FUNDING

In 2008, the general assembly and supreme court established the Vermont commission on judicial operation and charged the commission with evaluating

the allocation and management of fiscal resources, including state capital appropriations, for judicial operations. Therefore, due to the possibility that significant changes may occur in the planning, location, and physical plants of the judiciary, the general assembly will not appropriate capital funds for judiciary expenses until it receives the recommendations of the commission.

* * * Administration * * *

Sec. 44. 3 V.S.A. § 2291(c) is amended to read:

(c) The secretary of administration with the cooperation of the commissioners of public service and of buildings and general services shall develop and oversee the implementation of a state agency energy plan for state government. The plan shall be adopted by June 30, 2005, modified as necessary, and readopted by the secretary on or before ~~January 15 of each fifth~~ January 15, 2010 and each sixth year subsequent to ~~2005~~ 2010. The plan shall accomplish the following objectives and requirements:

* * *

Sec. 45. 3 V.S.A. § 2291b is amended to read:

§ 2291b. ADOPTION OF STATE AGENCY ENERGY IMPLEMENTATION PLANS

After review by the commissioner of buildings and general services and approval by the secretary of administration, each state agency shall adopt an implementation plan on or before ~~August 31, 2005~~ August 31, 2010 to ensure compliance with the state agency energy plan. Each agency shall readopt and file its implementation plan biennially with the commissioner to ensure that the implementation plan remains compatible with the state agency energy plan.

* * * Property Transactions * * *

Sec. 46. Sec. 26 of No. 52 of the Acts of 2007 is amended to read:
Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

The commissioner of buildings and general services is authorized, with the approval of the secretary of administration, to sell the properties listed in this section pursuant to 29 V.S.A. § 166. Of proceeds from the sales, \$50,000 is appropriated to the Friends of the State House for renovations to the state house. ~~The remainder is appropriated to the department of buildings and general services for construction and renovation of building 617 in Essex to house the department of health and department of public safety forensics laboratories~~ shall be paid into a capital fund account pursuant to 29 V.S.A. § 166(d).

* * *

Sec. 47. 16 V.S.A. § 3453a is amended to read:

§ 3453a. EMERGENCY OPERATION CENTERS AND SHELTERS

Any school building ~~for which state construction aid is provided under this chapter for the purpose of its construction, reconstruction or expansion, and which is or~~ may be designated as a local, regional, or state emergency operation center or shelter; shall be designed for use as an emergency operations center or shelter. For this purpose, the proposed project shall include the installation of a wiring harness capable of being connected to emergency electric power generation to provide for emergency heating, lighting, and communications. The wiring installation cost to upgrade emergency facilities shall be included in the budgets submitted to the legislature for capital funding pursuant to section 309 of Title 32. The state shall pay 100 percent of such costs, which shall at the department level be itemized and accounted for separately from those costs in which the state only shares in the project cost. The state shall not pay for the costs of purchasing the generator.

Sec. 48. Sec. 32(e)(2) of Act No. 200 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

(2) the transaction is limited to no more than ~~three~~ ten acres of land or mineral rights;

Sec. 49. CLOSING OF CORRECTIONAL FACILITIES; APPROVAL

The secretary of administration shall not plan to close or significantly reduce operations at any correctional facility unless approval to proceed with such closing or reduction plans is granted by both the joint committee on corrections oversight and the joint fiscal committee. Any plan submitted to the committees shall include an analysis of the regional impact, including how the increased transportation costs will be funded.

* * * Effective Date * * *

Sec. 50. EFFECTIVE DATE

This act shall take effect on passage.

Committee on the part of the Senate Committee on the part of the House

Sen. Philip Scott

Rep. Alice Emmons

Sen. Richard Mazza

Rep. Linda Myers

Sen. John Campbell

Rep. John Rodgers

Which was considered.

Recess

At eleven o'clock and twenty minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At twelve o'clock and thirty minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Committee of Conference Adopted**H. 445**

Consideration resumed on House bill, entitled

An act relating to capital construction and state bonding;

Thereupon, the report of the committee of conference was adopted.

Custody of Bill Returned to the Senate**H. 438**

House bill, entitled

An act relating to the state's transportation program;

Pursuant to the request of the Senate, **Rep. Peaslee of Guildhall** moved to return custody of the bill to the Senate, which was agreed to.

Message from the Senate No. 61

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 192. An act relating to electronic benefit machines for farmers' markets.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 47. An act relating to salvage yards.

And has concurred therein.

The Senate has considered joint resolutions originating in the House of the following titles:

J.R.H. 10. Joint resolution recognizing the commitment to quality service of Vermont's locally owned banks.

J.R.H. 29. Joint resolution urging Congress to enact a new Homeowner and Bank Protection Act.

And has adopted the same in concurrence.

The Senate has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses upon Senate bill of the following title:

S. 89. An act relating to stabilization of prices paid to Vermont dairy farmers.

And has accepted and adopted the same on its part.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Heidi Tringe, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House that on the eighth day of May, 2009, he approved and signed bills originating in the House of the following titles:

H. 69 An act relating to approval of amendments to the charter of the city of Rutland;

H. 205 An act relating to reporting to the Vermont Criminal Justice Training Council;

H. 430 An act relating to approval of an amendment to the charter of the town of St. Johnsbury'

H. 433 An act relating to approval of amendments to the charter of the town of Berlin.

Recess

At twelve o'clock and fifty minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At two o'clock in the afternoon, the Speaker called the House to order.

Rules Suspended; Action Postponed

H. 192

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Komline of Doreset**, the rules were suspended and House bill, entitled

An act relating to electronic benefit machines for farmers' markets

Was taken up for immediate consideration.

The Senate proposed to the House to amend the bill by adding three new Secs. to read as follows:

Sec. 2. MILK AND MEAT PILOT PROGRAM

(a) The commissioner of education, the secretary of agriculture, food and markets, and the secretary of human services shall work with Vermont's congressional delegation to design the reauthorization of the federal Child Nutrition Act to create a milk and meat pilot program in Vermont. The pilot program should be designed to:

(1) test the feasibility of and options for centralized statewide purchasing of local milk and meat for school meals; and

(2) offer technical assistance and training to school staff regarding sourcing, use, storage, and preparation of local foods.

(b) On or before January 15, 2010, the commissioner and secretaries shall report to the senate and house committees on agriculture on the success of their negotiations with the congressional delegation.

Sec. 3. FRESH FRUIT AND VEGETABLE GRANT PROGRAM;
TECHNICAL ASSISTANCE

(a) The department of education has received funding through the federal fresh fruit and vegetable grant program to increase the consumption of fresh fruit and vegetables and promote the nutritional health of schoolchildren. However, some of the schools receiving these funds have been unable to maximize their use due to lack of storage equipment, staff to administer the programs, staff to process the foods, or knowledge about how to optimize consumption of the fresh foods by young children. Therefore, the general assembly hereby directs the department of education to work with school districts and supervisory unions to identify ARRA funds they or the department will receive in fiscal year 2010 to determine if any may be used to provide the resources or technical assistance to schools that will help them maximize the purchase and use of local fruits and vegetables under the fresh fruit and vegetable grant program.

(b) On or before January 15, 2010, the commissioner of education shall report to the senate and house committees on agriculture on the success of

finding and using funds to help to implement the fresh fruit and vegetable grant program.

Sec. 4. 10 V.S.A. § 494 is amended to read:

§ 494. EXEMPT SIGNS

The following signs are exempt from the requirements of this chapter except as indicated in section 495 of this title:

* * *

(12) Directional signs, subject to regulations adopted by the Federal Highway Administration with a total surface area not to exceed ~~four~~ six square feet providing directions to places of business offering for sale agricultural products harvested or produced on the premises where the sale is taking place, or to farmers' markets that are members of the Vermont Farmers Market association selling Vermont agricultural products.

* * *

(15) Municipal informational and guidance signs. A municipality may provide alternative signs of a guidance or informational nature and creative design to assist persons in reaching destinations that are transportation centers, geographic districts, historic monuments and significant or unique educational, recreational or cultural landmarks, including farmers markets that are members of the Vermont Farmers Market association selling Vermont agricultural products, provided that such destinations are not private, for-profit enterprises. A proposal to provide alternative signs shall contain color, shape and sign placement requirements that shall be of a uniform nature within the municipality. The surface area of alternative signs shall not exceed 12 square feet, and the height of such signs shall not exceed 12 feet in height. The proposal shall be approved by the municipal planning commission for submission to and adoption by the local legislative body. Alternative signs shall be responsive to the particular needs of the municipality and to the values expressed in this chapter. These proposals shall be subject to and consistent with any plan duly adopted pursuant to chapter 117 of Title 24, shall be enforced under the provisions of 24 V.S.A. §§ 4444 and 4445 and may emphasize each municipality's special characteristics. No fees shall be assessed against a municipality that provides signs under this section and, upon issuance of permits under section 1111 of Title 19, such signs may be placed in any public right-of-way other than interstates. This section shall take effect upon the travel information council securing permission for alternative municipal signs in accordance with section 1029 of Title 23.

* * *

(17) Within a downtown district designated under the provisions of 24 V.S.A. chapter 76A, municipal information and guidance signs. A municipality may erect alternative signs to provide guidance or information to assist persons in reaching destinations that are transportation centers, geographic districts, and significant or unique educational, recreational, historic or cultural landmarks, including farmers markets that are members of the Vermont Farmers Market association selling Vermont agricultural products. A proposal to provide alternative signs shall contain color, shape and sign placement requirements that shall be uniform within the municipality. The surface area of alternative signs shall not exceed 12 square feet, and the highest point of such signs shall not exceed 12 feet above the ground, road surface or sidewalk. The proposal shall be approved by the municipal planning commission for submission to and adoption by the local legislative body. The sign proposal then shall be submitted to the travel information council for final approval. Denial may be based only on safety considerations. Reasons for denial shall be stated in writing. Alternative signs shall be responsive to the particular needs of the municipality and to the values expressed in this chapter. These proposals shall be subject to and consistent with any municipal plan duly adopted pursuant to chapter 117 of Title 24, shall be enforced under the provisions of 24 V.S.A. §§ 4444 and 4445 and may emphasize each municipality's special characteristics. No fees shall be assessed against a municipality that provides signs under this section and upon issuance of permits under section 1111 of Title 19, such signs may be placed in any public right-of-way other than an interstate highway. Notwithstanding subdivision 495(a)(7) or any other provision of this title or of section 1029 of Title 23, alternative signs permitted under this subsection shall not be required to comply with any nationally recognized standard.

and that the title of the bill be amended to read: "An act relating to encouraging use of local foods in Vermont's food system"

Pending the question, Shall the House agree to the Senate proposal of amendment? on motion of **Rep. Stevens of Shoreham**, action on the bill was postponed until 3:30 this afternoon.

**Consideration Resumed; Committee of Conference Report Adopted;
Rules Suspended and Action on the Bill Ordered Messaged to the Senate
Forthwith and the bill Delivered to the Governor Forthwith**

H. 427

Consideration resumed on House bill, entitled

An act relating to making miscellaneous amendments to education law;

Thereupon, the report of the Committee of Conference was adopted.

Thereupon, on motion of **Rep. Komline of Dorset**, the rules were suspended and action on the bill was ordered messaged to the Senate forthwith and the bill delivered to the Governor forthwith.

**Rules Suspended; Action Ordered Messaged to Senate Forthwith
and Bills Delivered to the Governor Forthwith**

On motion of **Rep. Komline of Dorset**, the rules were suspended and action on the bills were ordered messaged to the Senate forthwith and the bills delivered to the Governor forthwith.

H. 83

House bill, entitled

An act relating to underground storage tanks and the petroleum cleanup fund;

H. 445

House bill, entitled

An act relating to capital construction and state bonding.

Recess

At three o'clock and fifteen minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At four o'clock and ten minutes in the afternoon, the Speaker called the House to order.

Message from the Senate No. 62

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered the substitute report of the Committee of Conference upon the disagreeing votes of the two Houses upon House bill of the following title:

H. 438. An act relating to the state's transportation program.

And has accepted and adopted the same on its part.

Rules Suspended; Report of Committee of Conference Considered

H. 438

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Komline of Dorset**, the rules were suspended and House bill, entitled

An act relating to the state's transportation program;

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon the bill respectfully reported that it has met and considered the same and recommended that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and by inserting in lieu thereof the following:

Sec. 1. TRANSPORTATION PROGRAM

(a) The state's proposed fiscal year 2010 transportation program appended to the agency of transportation's proposed fiscal year 2010 budget, as amended by this act, is adopted to the extent federal, state, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) the term "agency" means the agency of transportation;

(2) the term "secretary" means the secretary of transportation;

(3) the table heading "As Proposed" means the transportation program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; and the term "change" or "changes" in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading;

(4) the term "bonding" refers to the net proceeds of transportation bonds which were included in the agency's proposed fiscal year 2010 transportation program;

(5) the term "ARRA funds" refers to federal funds allocated to the state by the American Recovery and Reinvestment Act of 2009;

(6) the term "TIB funds" refers to monies deposited in the transportation infrastructure bond fund in accordance with 19 V.S.A. § 11f.

* * * TIB Funds * * *

Sec. 2. TIB FUNDS

All spending of TIB funds authorized by this act with respect to an agency program and all appropriations of TIB funds shall be limited to eligible

projects as defined in 19 V.S.A. § 11f(b) and shall further be limited in amounts to the monies deposited in the transportation infrastructure bond fund during the fiscal year in which the spending is authorized and the appropriation is made.

* * * ARRA Funds * * *

Sec. 3. FEDERAL ECONOMIC RECOVERY FUNDS

(a) Division A – Title XII of the American Recovery and Reinvestment Act (ARRA) of 2009 allocates federal funds to the state for transportation-related projects. The secretary of transportation is authorized to obligate and expend ARRA funds:

(1) to projects as indicated in the document titled “VT Agency of Transportation – Proposed ARRA Project Plan” dated May 6, 2009.

(2) Up to \$5,000,000 to additional town highway paving projects that meet federal eligibility and readiness criteria. Individual projects shall not exceed \$750,000 in federal funds, unless approved by the secretary of transportation. Any exceptions shall be reported to the joint transportation oversight committee.

(3) Up to \$5,000,000 to additional town highway structures projects that meet federal eligibility and readiness criteria. Individual projects shall not exceed \$750,000 in federal funds, unless approved by the secretary of transportation. Any exceptions shall be reported to the joint transportation oversight committee.

(b) Any proposed obligation and expenditure of ARRA funds other than as authorized under subsection (a) of this section shall be subject to the approval of the joint transportation oversight committee.

(c) The agency shall report on the obligation and expenditure of ARRA funds to the joint transportation oversight committee at the committee’s regular and specially scheduled 2009 meetings.

(d) All reports from the agency to the joint transportation oversight committee (JTOC) required under this section when the legislature is not in session shall take place at meetings of the committee called by the chair.

* * * Paving * * *

Sec. 4. PROGRAM DEVELOPMENT – PAVING

(1) Spending authority in the paving statewide preventive maintenance program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
ROW	0	0	0
Construction	500,000	0	-500,000
Total	500,000	0	-500,000
<u>Source of funds</u>			
State	500,000	0	-500,000
Total	500,000	0	-500,000

(2) Under Sec. 3(a)(3) of this act, a new project is added to authorize the expenditure of up to \$5,000,000 in ARRA funds on additional town highway paving projects that meet federal eligibility and readiness criteria for the use of ARRA funds.

(3) Including the changes in subsections (1) and (2) of this section, total spending authority in the paving program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	2,405,000	2,405,000	0
Row	0	0	0
Construction	66,229,802	116,019,718	49,789,916
Total	68,634,802	118,424,718	49,789,916
<u>Source of funds</u>			
State	13,018,034	3,912,806	-9,105,228
TIB funds	0	2,592,739	2,592,739
Federal	55,616,768	27,247,723	-28,369,045
ARRA funds	0	84,671,450	84,671,450
Total	68,634,802	118,424,718	49,789,916

* * * Roadway * * *

Sec. 5. PROGRAM DEVELOPMENT – ROADWAY

(1) Spending authority for the Cabot-Danville US 2 FEGC F 028-3(26)C/1 roadway project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0

ROW	0	0	0
Construction	4,000,000	2,500,000	-1,500,000
Other	0	0	0
Total	4,000,000	2,500,000	-1,500,000
<u>Source of funds</u>			
State	200,000	0	-200,000
TIB funds	0	125,000	125,000
Federal	3,800,000	2,375,000	-1,425,000
Total	4,000,000	2,500,000	-1,500,000

(2) Spending authority for the Morristown VT 100 STP F 029-1(2) roadway project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	200,000	200,000	0
ROW	500,000	2,000,000	1,500,000
Construction	0	0	0
Other	200,000	200,000	0
Total	900,000	2,400,000	1,500,000
<u>Source of funds</u>			
State	182,440	0	-182,440
TIB funds	0	482,440	482,440
Federal	717,560	1,917,560	1,200,000
Total	900,000	2,400,000	1,500,000

(3) Spending authority for the Winooski NH 089-3(65) roadway project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	100,000	100,000	0
ROW	0	0	0
Construction	1,000,000	1,000,000	0
Other	0	0	0
Total	1,100,000	1,100,000	0

Source of funds

State	110,000	0	-110,000
TIB funds	0	10,000	10,000
Federal	990,000	1,090,000	100,000
Total	1,100,000	1,100,000	0

(4) Spending authority for the Derby IM 091-3(45) roadway border crossing project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	287,500	0	-287,500
Total	287,500	0	-287,500

Source of funds

State	287,500	0	-287,500
Federal	0	0	0
Total	287,500	0	-287,500

(5) Including the changes made in subsections (1) through (4) of this section, total spending authority in the roadway program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	5,446,892	5,446,892	0
Row	7,115,000	8,615,000	1,500,000
Construction	43,752,270	45,561,882	1,809,612
Other	1,087,500	800,000	-287,500
Total	57,401,662	60,423,774	3,022,112

Source of funds

State	2,749,362	641,762	-2,107,600
Bonding	4,390,980	0	-4,390,980
TIB funds	0	6,477,842	6,477,842
Federal	48,710,890	50,353,740	1,642,850
ARRA funds	0	1,400,000	1,400,000
Local	1,550,430	1,550,430	0
Total	57,401,662	60,423,774	3,022,112

* * * Bridge Programs * * *

Sec. 6. PROGRAM DEVELOPMENT – STATE BRIDGE

Spending authority in the state bridge program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	3,550,576	3,550,576	0
Row	1,181,202	1,181,202	0
Construction	19,002,022	21,610,522	2,608,500
Other	0	0	0
Total	23,733,800	26,342,300	2,608,500
<u>Source of funds</u>			
State	500,000	3,529,579	3,029,579
Bonding	4,686,420	0	-4,686,420
TIB funds	0	1,385,241	1,385,241
Federal	18,547,380	17,460,980	-1,086,400
ARRA funds	0	3,966,500	3,966,500
Total	23,733,800	26,342,300	2,608,500

Sec. 7. PROGRAM DEVELOPMENT – INTERSTATE BRIDGE

(1) Spending authority in the Brattleboro I-91 IM 091-1(50) project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	50,000	50,000	0
Row	1,000	1,000	0
Construction	0	1,500,000	1,500,000
Other	0	0	0
Total	51,000	1,551,000	1,500,000
<u>Source of funds</u>			
State	5,100	5,100	0
Federal	45,900	45,900	0
ARRA funds	0	1,500,000	1,500,000
Total	51,000	1,551,000	1,500,000

(2) Including the change made in subsection (1) of this section, total spending authority in the interstate bridge program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	607,500	607,500	0
Row	26,000	26,000	0
Construction	5,315,000	6,815,000	1,500,000
Other	0	0	
Total	5,948,500	7,448,500	1,500,000
<u>Source of funds</u>			
State	100,000	594,850	494,850
Bonding	494,850	0	-494,850
TIB funds	0	0	0
Federal	5,353,650	5,353,650	0
ARRA funds	0	1,500,000	1,500,000
Total	5,948,500	7,448,500	1,500,000

Sec. 8. TOWN HIGHWAY BRIDGE

(1) Under Sec. 3(a)(3) of this act, a new project is added to authorize the expenditure of up to \$5,000,000 in ARRA funds on additional town highway bridge and culvert projects that meet federal eligibility and readiness criteria for the use of ARRA funds.

(2) Including the change made in subsection (1) of this section, total spending authority in the town bridge program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	1,663,952	1,663,952	0
Row	588,278	588,278	0
Construction	18,418,870	23,817,186	5,398,316
Total	20,671,100	26,069,416	5,398,316
<u>Source of funds</u>			
State	1,540,899	500,000	-1,040,899
Bonding	1,500,000	0	-1,500,000
TIB funds	0	1,875,976	1,875,976

Federal	16,273,728	12,858,036	-3,415,692
ARRA funds	0	9,442,034	9,442,034
Local	1,356,473	1,393,370	36,897
Total	20,671,100	26,069,416	5,398,316

Sec. 9. BRIDGE MAINTENANCE

Spending authority in the bridge maintenance program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	410,000	410,000	0
Row	21,500	21,500	0
Construction	17,192,200	33,619,840	16,427,640
Total	17,623,700	34,051,340	16,427,640

Source of funds

State	6,844,140	4,011,751	-2,832,389
TIB funds	0	234,020	234,020
Federal	10,779,560	23,561,522	12,781,962
ARRA funds	0	6,244,047	6,244,047
Total	17,623,700	34,051,340	16,427,640

* * * Safety and Traffic Operations * * *

Sec. 10. SAFETY AND TRAFFIC OPERATIONS

Spending authority in the safety and traffic operations program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	4,900,000	4,900,000	0
PE	1,170,316	1,170,316	0
ROW	563,750	563,750	0
Construction	9,833,278	17,201,278	7,368,000
Total	16,467,344	23,835,344	7,368,000

Source of funds

State	407,343	407,343	0
Federal	16,010,001	23,378,001	7,368,000

Local	50,000	50,000	0
ARRA funds	0	0	0
Total	16,467,344	23,835,344	7,368,000

* * * Bike and Pedestrian Facilities * * *

Sec. 11. BIKE AND PEDESTRIAN FACILITIES

(1) A new project is added for the rehabilitation of rail trails STP NWRT() with the following spending authority:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	0	694,194	694,194
Total	0	694,194	694,194

Source of funds

ARRA	0	694,194	694,194
Total	0	694,194	694,194

(2) A new project is added for curb ramp modifications STP RAMP() with the following spending authority:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	0	552,500	552,500
Total	0	552,500	552,500

Source of funds

ARRA	0	552,500	552,500
Total	0	552,500	552,500

* * * Transportation Buildings * * *

Sec. 12. TRANSPORTATION BUILDINGS

(1) Spending authority for the transportation buildings Berlin project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	100,000	0	-100,000
ROW	200,000	0	-200,000
Construction	650,000	0	-650,000
Total	950,000	0	-950,000

Source of funds

State	190,000	0	-190,000
Federal	760,000	0	-760,000
Total	950,000	0	-950,000

(2) The agency shall study alternatives for the siting of the materials testing lab and report to the house and senate committees on transportation by January 15, 2010.

* * * DMV * * *

Sec. 13. DEPARTMENT OF MOTOR VEHICLES

Spending authority for the department of motor vehicles is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	17,063,642	16,913,642	-150,000
Operating Expenses	8,176,673	8,116,673	-60,000
Grants	50,000	50,000	0
Total	25,290,315	25,080,315	-210,000

Source of funds

State	23,807,821	23,597,821	-210,000
Federal	1,482,494	1,482,494	0
Total	25,290,315	25,080,315	-210,000

* * * Rail * * *

Sec. 14. RAIL

(a) Spending authority for passenger rail service (Amtrak contract) is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	3,300,000	3,700,000	400,000
Total	3,300,000	3,700,000	400,000

Source of funds

State	3,300,000	3,700,000	400,000
Total	3,300,000	3,700,000	400,000

(b) Spending authority for rail property lease and encroachment management is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	300,000	212,761	-87,239
Total	300,000	212,761	-87,239
<u>Source of funds</u>			
State	300,000	212,761	-87,239
Federal	0	0	0
Total	300,000	212,761	-87,239

(c) In the event the July 2009 consensus forecast for fiscal year 2010 transportation fund revenue is increased by at least \$800,000, \$800,000 of transportation funds and \$3,200,000 of western rail corridor federal earmark funds shall be used to purchase \$4,000,000 of continuously welded rail for installation along the western corridor.

* * * Maintenance * * *

Sec. 15. MAINTENANCE

Total authorized spending in the maintenance program is amended as follows:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	34,028,928	34,028,928	0
Operating Expenses	32,991,361	32,011,361	-980,000
Grants	278,020	278,020	0
Total	67,298,309	66,318,309	-980,000
<u>Source of funds</u>			
State	64,315,237	63,335,237	-980,000
Federal	2,883,072	2,883,072	0
Other	100,000	100,000	0
Total	67,298,309	66,318,309	-980,000

* * * Finance and Management * * *

Sec. 16. FINANCE AND MANAGEMENT

Spending authority for the finance and management division is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
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Personal services	10,071,137	10,071,137	0
Operating expenses	2,538,262	2,438,262	-100,000
Total	12,609,399	12,509,399	-100,000
<u>Source of funds</u>			
State	12,109,399	12,009,399	-100,000
Federal	500,000	500,000	0
Total	12,609,399	12,509,399	-100,000

* * * Town Highway Class 2 * * *

Sec. 17. TOWN HIGHWAY CLASS 2 ROADWAY PROGRAM

Spending authority for the town highway class 2 roadway program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	6,448,750	5,748,750	-700,000
Total	6,448,750	5,748,750	-700,000
<u>Source of funds</u>			
TFunds	6,448,750	5,748,750	-700,000
ARRA	0		0
Total	6,448,750	5,748,750	-700,000

* * * Enhancements * * *

Sec. 18. ENHANCEMENTS

Spending authority for the enhancement program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	0	800,000	800,000
PE	533,005	533,005	0
ROW	512,650	512,650	0
Construction	2,162,402	2,162,402	0
Total	3,208,057	4,008,057	800,000
<u>Source of funds</u>			
State	73,000	73,000	0
Federal	2,566,446	2,566,446	0

ARRA	0	800,000	800,000
Local	568,611	568,611	0
Total	3,208,057	4,008,057	800,000

* * * Public Transit * * *

Sec. 19. PUBLIC TRANSIT

Spending authority for the public transit capital assistance program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	4,565,331	8,492,254	3,926,923
Total	4,565,331	8,492,254	3,926,923

Source of funds

TFunds	1,129,273	629,273	-500,000
Fed	3,436,058	3,936,058	500,000
ARRA	0	3,926,923	3,926,923
Total	4,565,331	8,492,254	3,926,923

* * * Aviation * * *

Sec. 20. AVIATION

Spending authority for the Berlin Phase I parallel taxiway-terminal apron project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
Construction	250,000	4,000,000	3,750,000
Total	250,000	4,000,000	3,750,000

Source of funds

TFunds	25,000	0	-25,000
Fed	225,000	0	-225,000
ARRA	0	4,000,000	4,000,000
Total	250,000	4,000,000	3,750,000

* * * Applying for ARRA funds * * *

Sec. 21. APPLYING FOR AMERICAN RECOVERY AND
REINVESTMENT ACT FUNDS

The agency shall apply for a grant of rail infrastructure discretionary ARRA funds to cover, in whole or in part, the cost of upgrading the state's western rail corridor for intercity passenger rail service to and from Burlington, Rutland, Bennington, Vermont and Albany, New York. In applying for a grant, the agency shall consider all possible sources of nonfederal match dollars which could be included in and would thereby strengthen the application. The grant application shall state that priority will be given to the purchase and installation of continuously welded rail for the western corridor.

* * * Motor Fuel Transportation Infrastructure Assessments * * *

Sec. 22. 23 V.S.A. § 3003(a) is amended to read:

(a) A tax of 25 cents per gallon and \$0.25, a fee of one cent per gallon is imposed on each gallon of fuel \$0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a \$0.03 motor fuel transportation infrastructure assessment, which for purposes of the International Fuel Tax Agreement only shall be deemed to be a surcharge, are imposed on each gallon of fuel:

- (1) sold or delivered by a distributor; or
- (2) used by a user.

Sec. 23. 23 V.S.A. § 3003(d) is amended to read:

(d)(1) For users, the following uses shall be exempt from taxation the tax and motor fuel transportation infrastructure assessment imposed under this chapter and be entitled to a credit for any tax paid for such uses under section 3020 of this title:

Sec. 24. 23 V.S.A. § 3106(a) is amended to read:

(a) Except for sales of motor fuels between distributors licensed in this state, which sales shall be exempt from the tax and from the motor fuel transportation infrastructure assessment, in all cases not exempt from the tax under the laws of the United States at the time of filing the report required by section 3108 of this title, each distributor shall pay to the commissioner a tax of \$0.19 per upon each gallon of motor fuel sold by the distributor, and a motor fuel transportation infrastructure assessment in the amount of two percent of the retail price exclusive of all federal and state taxes upon each gallon of motor fuel sold by the distributor. The retail price shall be based upon the average retail prices for regular gasoline determined and published by the department of public service. The retail price applicable for the January-March quarter shall be the average of the retail prices published by the

department of public service the prior October, November, and December; and the retail price applicable in each succeeding calendar quarter shall be equal to the average of the retail prices published by the department of public service in the preceding quarter. The distributor shall also pay to the commissioner a tax and a motor fuel transportation infrastructure assessment in the same amount amounts upon each gallon of motor fuel used within the state by him or her.

Sec. 25. RETAIL PRICE FOR JUNE 2009

The retail price for purposes of the motor fuels transportation infrastructure assessment applicable for June 2009 shall be the average price for regular unleaded gasoline determined by the department of public service as of May 2009 of \$2.03 per gallon.

Sec. 26. DEPARTMENT OF PUBLIC SERVICE

The Department of Public Service shall conduct a monthly survey of businesses selling retail regular gasoline designed to determine a average statewide retail price and publish the survey result no latter than the 20th day of each month starting in June 2009.

* * * Transportation Infrastructure Bonds * * *

Sec. 27. 19 V.S.A. § 11f is added to read:

§ 11f. TRANSPORTATION INFRASTRUCTURE BOND FUND

(a) There is created a special account within the transportation fund known as the transportation infrastructure bond fund to consist of funds raised from the motor fuel transportation infrastructure assessments levied pursuant to 23 V.S.A. §§ 3003(a) and 3106(a). Interest from the fund shall be credited annually to the fund, and the amount in the account shall carry forward from year to year.

(b)(1) Monies in the fund may be used:

(A) to pay principal, interest, and related costs on transportation infrastructure bonds issued pursuant to section 972 of Title 32; and

(B) to pay for:

(i) the rehabilitation, reconstruction, or replacement of state bridges, culverts, roads, railroads, airports, and necessary buildings which, after such work, have an estimated minimum remaining useful life of 10 years;

(ii) the rehabilitation, reconstruction, or replacement of municipal bridges, culverts, and highways which, after such work, have an estimated minimum remaining useful life of 10 years; and

(iii) up to \$100,000.00 per year for operating costs associated with administering the capital expenditures.

(2) However, in any fiscal year, no payments shall be made under this subsection unless the amount needed to pay for the following items for that fiscal year, to the extent required by the terms of any trust agreement applicable to the transportation infrastructure bonds, is either in the fund and available to pay for those items, or the items have been paid: debt service due on the bonds for that fiscal year; any associated reserve or sinking funds; and any associated costs of the bonds as defined in subsection 972(b) of Title 32.

(c) The assessments for motor fuel transportation infrastructure assessments paid pursuant to 23 V.S.A. §§ 3003(a) and 3106(a) shall not be reduced below the rates in effect at the time of issuance of any transportation infrastructure bond until the principal, interest, and all costs which must be paid in order to retire the bond have been paid.

* * * Transportation Infrastructure Bonds * * *

Sec. 28. 32 V.S.A. chapter 13, subchapter 4 is added to read:

Subchapter 4. Transportation Infrastructure Bonds

§ 972. TRANSPORTATION INFRASTRUCTURE BONDS

(a) The treasurer may issue bonds pursuant to this subchapter from time to time in amounts authorized by the general assembly in its annual transportation bill. Bonds issued under this section shall be referred to as “transportation infrastructure bonds.”

(b) Principal and interest on the bonds and associated costs shall be paid from the transportation infrastructure bond fund established in 19 V.S.A. § 11f. Associated costs of bonds include sinking fund payments; reserves; redemption premiums; additional security, insurance, or other form of credit enhancement required or provided for in any trust agreement entered to secure bonds; and related costs of issuance.

(c) Funds raised from bonds issued under this section may be used to pay for:

(1) the rehabilitation, reconstruction, or replacement of state bridges and culverts; and

(2) the rehabilitation, reconstruction, or replacement of municipal bridges and culverts; and

(3) the rehabilitation, reconstruction, or replacement of state roads, railroads, airports, and necessary buildings which, after such work, have an estimated minimum remaining useful life of 30 years or more;

(d) Pursuant to section 953 of this title, interest and the investment return on the bonds shall be exempt from taxation in this state.

(e) Bonds issued under this section shall be legal investments for all persons without limit as to the amount held, regardless of whether they are acting for their own account or in a fiduciary capacity. The bonds shall likewise be legal investments for all public officials authorized to invest in public funds.

§ 973. ISSUANCE OF BONDS

(a) Transportation infrastructure bonds may be issued at one time or in a series from time to time in any form permitted by law, in such manner and on such terms and conditions as the state treasurer may determine to be in the best interests of the state, except that the state treasurer shall determine the following with the approval of the governor:

- (1) date of issuance;
- (2) place of payment;
- (3) rate of interest (which may be fixed or variable) or the manner of determining such rate of interest;
- (4) original stated value;
- (5) investment returns or manner of determining the investment returns;
- (6) maturity value, time of maturity, and provisions with respect to redemption prior to maturity;
- (7) whether to issue the bonds at par, premium, or discount;
- (8) sinking fund and reserve requirements;
- (9) amount and manner of issuance; and
- (10) other particulars as to the form of such bonds within the limitations of this subchapter.

(b) The state treasurer shall determine the annual payment schedule for the bonds, including debt service and sinking fund payments, if any, as he or she may deem to be in the best interests of the state. However, any bond issued under this subchapter shall mature not later than 30 years after the date of issuance. Installments on the bonds need not be payable in substantially equal or diminishing amounts. The last bond payment shall be made not later than 30 years after the date of issuance.

(c) The state treasurer may determine at the time of issuance to apply all or a portion of any net premium to the costs of issuance, other related financing costs, or the payment of the principal or interest to come due. If net premium

is applied to costs of issuance, the amount of the premium shall not be included in the net proceeds of the issue. Net premium not applied to costs of issuance shall be included in the net proceeds of the issue and may be used for any of the authorized purposes of the bond proceeds.

(d) The principal, interest, investment returns, and maturity value of transportation infrastructure bonds shall be payable in lawful money of the United States or of the country in which the bonds are sold.

(e) Transportation infrastructure bonds shall be registered pursuant to section 981 of this title.

§ 974. SECURITY DOCUMENTS

(a) The state treasurer is authorized to secure bonds authorized under this subchapter by a trust agreement which pledges or assigns monies in the transportation infrastructure bond fund; by additional security, insurance, or other forms of credit enhancement which may be secured with the bonds on a parity or subordinate basis or by both.

(b) Any trust agreement or credit enhancement agreement entered into pursuant to this section shall be valid and binding from the time of the agreement without any physical delivery or further act and without any filing or recording under the Uniform Commercial Code or otherwise, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise, irrespective of whether such parties have notice thereof.

(c) Any trust agreement or credit enhancement agreement may establish provisions defining defaults and establishing remedies and other matters relating to the rights and security of the holders of the bonds or other secured parties as determined by the state treasurer, including provisions relating to the establishment of reserves; the issuance of additional or refunding bonds, whether or not secured on a parity basis; the application of receipts, monies, or funds pledged pursuant to the agreement; and other matters deemed necessary or desirable by the state treasurer for the security of the bonds, and may also regulate the custody, investment, and application of monies.

(d) For payment of principal, interest, investment returns, and maturity value of transportation infrastructure bonds, the full faith and credit of the state is hereby pledged. However:

(1) if pledging of full faith and credit of the state is not necessary to market a transportation infrastructure bond in the best interest of the state, the treasurer shall enter into an agreement which establishes that the full faith and credit of the state is not pledged for payment of principal, interest, investment returns, and maturity value of the bond. In determining whether to pledge the

full faith and credit of the state, the state treasurer shall consider the anticipated effect of such a pledge on the credit standing of the state, the marketability of the transportation infrastructure bond, and other factors he or she deems appropriate; and

(2) the treasurer shall only use other revenues to pay for debt service and associated costs as defined in section 972 of this title on transportation infrastructure bonds to which the full faith and credit of the state has been pledged in the event that monies in the transportation infrastructure bond fund are insufficient to pay for it.

§ 975. PROCEEDS

(a) Proceeds from the sale of bonds may be expended for the authorized purposes of the bonds; including the expenses of preparing, issuing, and marketing the bonds; any notes issued under section 976 of this title; and amounts for any reserves. However, no purchasers of the bonds shall be bound to see to the proper application of the proceeds thereof.

(b) The treasurer may pay for the interest on, principal of, investment return on, maturity value of, and associated costs as defined in subsection 972(b) of this title of bonds issued under this subchapter from the transportation infrastructure bond fund as they fall due without further order or authority.

(c) The general assembly shall appropriate the amount necessary to pay the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on transportation infrastructure bonds then outstanding in the annual appropriations bill and the principal and interest on, investment return and maturity value of, and sinking fund installments on the transportation infrastructure bonds as may come due before appropriations for payment have been made shall be paid from the transportation infrastructure bond fund, or with respect to bonds to which the full faith and credit of the state has been pledged and in accordance with subdivision 974(d)(2) of this title, from the general fund or other applicable fund.

§ 976. ANTICIPATION OF PROCEEDS

(a) Pending the issue of transportation infrastructure bonds, the state treasurer with the approval of the governor may use any available cash in the transportation infrastructure bond fund for the purposes for which the bonds were authorized, and shall restore the borrowed funds from the proceeds of the bonds.

(b) The state treasurer, with the approval of the governor, may borrow upon notes of the state sums of money in anticipation of the proceeds of the bonds. Notes issued under this subsection shall be issued on such terms and at such

times as the treasurer and governor may determine, and shall mature not more than three years from the date of issuance, provided that notes issued for a shorter period may be refunded from time to time by the issue of other such notes maturing within the required period of three years.

(c) The authority granted under this section is in addition to and not in limitation of any other authority.

§ 977. REFUNDING BONDS

The state treasurer with the approval of the governor is hereby authorized to issue transportation infrastructure bonds in order to refund all or any portion of outstanding transportation bonds at any time after the issuance of the bonds to be refunded pursuant to subsections 961(b), (c), and (d) of this title.

§ 978. PLEDGE

The general assembly hereby pledges and covenants with holders of the bonds issued under this subchapter that the state will fulfill the terms of any agreement made with the holders of transportation infrastructure bonds and will not in any way impair the rights or remedies of the holders of the bonds until the bonds, interest, and all costs associated with the bonds are fully paid.

§ 979. AUTHORITIES

In addition to the provisions of this subchapter, the following provisions of this title shall apply to transportation infrastructure bonds:

(1) sections 953, 956, 958, and 960;

(2) subsection 954(c), except that transfers shall be made only among projects to be funded with transportation infrastructure bonds; and

(3) section 957, except that consolidation may be only among transportation infrastructure bonds, and the bonds shall be the lawful obligation of the transportation infrastructure bond fund and not of the remaining revenues of the state unless the treasurer has agreed to pledge the full faith and credit of the state pursuant to subdivision 974(e)(2) of this title.

§ 980. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

The state treasurer is authorized to issue transportation infrastructure bonds pursuant to section 972 of this title for the purpose of funding future appropriations only as approved by the general assembly.

Sec. 29. PLAN FOR USE OF BOND PROCEEDS IN FUTURE YEARS

On or before January 15, 2010, the agency of transportation shall submit to the joint transportation oversight committee a plan for use of bond proceeds for

transportation purposes during state fiscal years 2011, 2012, and 2013, taking into consideration the likely availability of funds from other sources and the needs identified by the transportation project planning process. In no instance shall the total request for bonding authority exceed \$100,000,000.

Sec. 30. FISCAL YEAR 2010 BONDING AUTHORITY

Notwithstanding 32 V.S.A. §980, the state treasurer is authorized to issue transportation infrastructure bonds for fiscal year 2010 in a total amount of no more than \$10,000,000, provided that the agency requests and the joint transportation oversight committee approves of such issue.

Sec. 31. 32 V.S.A. § 1001(b) is amended to read:

(b)(1) Committee duties. The committee shall review annually the size and affordability of the net state tax-supported indebtedness, and submit to the governor and to the general assembly an estimate of the maximum amount of new long-term net state tax-supported debt that prudently may be authorized for the next fiscal year. The estimate of the committee shall be advisory and in no way bind the governor or the general assembly.

(2) The committee shall conduct ongoing reviews of the amount and condition of bonds, notes, and other obligations of instrumentalities of the state for which the state has a contingent or limited liability or for which the state legislature is permitted to replenish reserve funds, and, when deemed appropriate, recommend limits on the occurrence of such additional obligations to the governor and to the general assembly.

(3) The committee shall conduct ongoing reviews of the amount and condition of the transportation infrastructure bond fund established in 19 V.S.A. § 11f and of bonds and notes issued against the fund for which the state has a contingent or limited liability.

Sec. 32. 32 V.S.A. § 1001a is amended to read:

§ 1001a. REPORTS

The capital debt affordability advisory committee shall prepare and submit, consistent with 2 V.S.A. § 20(a), a report on:

(1) general obligation debt, pursuant to subsection 1001(c) of this title; and

(2) how many, if any, transportation infrastructure bonds have been issued and under what conditions.

* * * Town Local Match Requirements * * *

Sec. 33. 19 V.S.A. § 309b is amended to read:

§ 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

* * *

(c) Notwithstanding subsections 309a(a), (b), and (c) of this title, a municipality may use a grant awarded under the town highway structures program or the class 2 town highway roadway program to provide the nonfederal matching funds required to draw down a federal earmark or to match grants provided to towns under the American Recovery and Reinvestment Act of 2009. In all such cases, the grant shall be matched by local funds as provided in this section. The intended use of a town highway grant as matching funds for a federal earmark or for grants provided to towns under the American Recovery and Reinvestment Act of 2009 shall not entitle a municipal grant applicant to any priority for a grant award in any fiscal year. When grants awarded under the town highway structures program or the class 2 town highway roadway program are used to satisfy nonfederal matching requirements for federal earmarks or for grants provided to towns under the American Recovery and Reinvestment Act of 2009, the term “project costs” in subsections (a) and (b) of this section shall refer only to the nonfederal match for the federal earmark or for a grant provided to towns under the American Recovery and Reinvestment Act 2009.

* * * ARRA Funding of Town Projects * * *

Sec. 34. ARRA FUNDING OF TOWN PROJECTS

Any town transportation project which as a matter of state law requires a local match shall retain the local match requirement regardless of the state’s use of ARRA funds to fund the project.

* * * Motor Vehicle Fees * * *

Sec. 35. 23 V.S.A. § 114(a)(14) is amended to read:

(a) The commissioner shall be paid the following fees for miscellaneous transactions:

* * *

(14) Certified copy three-year operating record ~~10.00~~ 11.00

Sec. 36. 23 V.S.A. § 115(a) is amended to read:

(a) Any Vermont resident may make application to the commissioner and be issued an identification card which is attested by the commissioner as to true name, correct age, and any other identifying data as the commissioner may require which shall include, in the case of minor applicants, the written consent of the applicant’s parent, guardian or other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and

shall contain such evidence of age and identity as the commissioner may require. The commissioner shall require payment of a fee of ~~\$15.00~~ \$17.00 at the time application for an identification card is made.

Sec. 37. 23 V.S.A. § 304(b) is amended to read:

(b) The authority to issue special motor vehicle number plates or receive applications or petitions for special number plates for safety organizations and service organizations shall reside with the commissioner. Determination of compliance with the criteria contained in this subsection shall be within the discretion of the commissioner. Series of number plates for safety and service organizations which are authorized by the commissioner shall be issued in order of approval, subject to the operating considerations in the department as determined by the commissioner. The commissioner shall issue special number plates marked with initials, letters, or combination of numerals and letters, in the following manner:

(1) Except as otherwise provided, at the request of the registrant of any motor vehicle, upon application and upon payment of an annual fee of ~~\$35.00~~ \$38.00 in addition to the annual fee for registration. He or she may not issue two sets of special number plates bearing the same initials or letters unless the plates also contain a distinguishing number. Special number plates are subject to reassignment if not renewed within 60 days of expiration of the registration.

(2) For the purposes of this subdivision, "safety organizations" shall include groups which have at least 100 instate members in good standing and provide police and fire protection, rescue squads, national guard, together with those organizations required to respond to public emergencies. It shall include amateur radio operators licensed by the U.S. Federal Communications Commission. For purposes of this subdivision, "service organization" includes any group which (i) has as a primary purpose, service to the community through specific programs for the improvement of public health, education, or environmental awareness and conservation, and are not limited to social activities; (ii) has nonprofit status under Section 501(c)(3) or (10) of the United States Internal Revenue Code, as amended; (iii) is registered as a nonprofit corporation with the office of the secretary of state; and (iv) except for a military veterans group, has at least 100 instate members in good standing. "Service organization" also includes congressionally chartered and noncongressionally chartered United States military service veterans groups.

(A) At the request of the leader of a safety organization or service organization, upon application and payment of a fee of ~~\$10.00~~ \$15.00 for each set of plates in addition to the annual fee for registration, special plates indicating membership in one of the "safety organizations" or "service organizations" may be issued to registrants of vehicles registered at the

pleasure car rate and of trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan, who are members of these organizations. The applicant must provide a written statement from the appropriate official of the organization, authorizing the issuance of the plates.

(B) At the time that an organization requests the plates, it shall deposit ~~\$1,000.00~~ \$2,000.00 with the commissioner. Notwithstanding section 502 of Title 32, the commissioner may charge the actual costs of production of the plates against the fees collected and the balance shall be deposited in the transportation fund. For ~~each set~~ the first 100 sets of plates issued, ~~\$10.00~~ \$15.00 of this deposit shall be deemed to be the safety organization or service organization special plate fee for each authorized applicant. Of this deposit, \$500.00 shall be retained by the department to recover costs of developing the organization plate. When the initial deposit of ~~\$1,000.00~~ \$1,500.00 is depleted, applicants shall be required to pay the ~~\$10.00~~ \$15.00 fee as provided for in subdivision (1) of this subsection. Notwithstanding section 502 of Title 32, the commissioner may charge the actual costs of production of the plates against the fees collected and shall remit the balance to the transportation fund. No organization shall charge its members any additional fee or premium charge for the authorization, right or privilege to display these special number plates. This provision shall not prevent any organization from recovering up to ~~\$1,000.00~~ \$1,500.00 from applicants for the special plates.

(C) After consulting with representatives of the safety or service organization, the commissioner shall determine the design of the special plates, on the basis that the primary purpose of motor vehicle number plates is vehicle identification. An organization applying for a special plate under this subsection shall present the commissioner with a name and emblem that is not obscene, offensive or confusing to the general public and does not promote, advertise or endorse a product, brand, or service provided for sale, or promote any specific religious belief or political party. The organization's name and emblem must not infringe or violate trademarks, trade names, service marks, copyrights, or other proprietary or property rights and the organization must have the right to use the name and emblem. The organization shall designate an officer or member to act as the principal contact and to submit a distinctive emblem for use on a special number plate, if authorized. An organization may have only one design, regardless of the number of individual organizational units within the state that may provide the same or substantially similar services. Nothing herein shall be construed as authorizing any individual squad, department, or unit to request a unique or specially designed plate different than the plate designed by the commissioner.

* * *

Sec. 38. 23 V.S.A. § 304b is amended to read:

§ 304b. CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

(a) The commissioner shall, upon application, issue conservation registration plates for use only on vehicles registered at the pleasure car rate and on trucks registered for less than 26,001 pounds, on vehicles registered to state agencies under section 376 of this title and excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The commissioner of motor vehicles and the commissioner of fish and wildlife shall determine the graphic design of the special plates in a manner which serves to enhance the public awareness of the state's interest in restoring and protecting its wildlife and major watershed areas. The commissioner of motor vehicles and the commissioner of fish and wildlife may alter the graphic design of these special plates provided that plates in use at the time of a design alteration shall remain valid subject to the operator's payment of the annual registration fee. Applicants shall apply on forms prescribed by the commissioner and shall pay an initial fee of ~~\$20.00~~ \$23.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a conservation plate shall pay a renewal fee of ~~\$20.00~~ \$23.00. The commissioner shall adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection. The commissioner of motor vehicles and the commissioner of fish and wildlife shall annually submit to the members of the house committees on transportation and fish, wildlife and water resources, and the members of the senate committees on transportation and natural resources and energy a report detailing, over a three-year period, the revenue generated, the number of new conservation plates sold and the number of renewals, and recommendations for program enhancements.

(b) Initial fees collected under subsection (a) of this section shall be allocated as follows:

- (1) ~~\$10.00~~ \$11.00 to the transportation fund.
- (2) ~~\$5.00~~ \$6.00 to the department of fish and wildlife for deposit into the nongame wildlife account created in 10 V.S.A. § 4048.
- (3) ~~\$5.00~~ \$6.00 to the department of fish and wildlife for deposit into the watershed management account created in 10 V.S.A. § 4050.

(c) Renewal fees collected under subsection (a) of this section shall be allocated as follows:

- (1) ~~\$9.00~~ \$10.00 to the department of fish and wildlife for deposit into the nongame wildlife account created in 10 V.S.A. § 4048.

(2) ~~\$9.00~~ \$10.00 to the department of fish and wildlife for deposit into the watershed management account created in 10 V.S.A. § 4050.

(3) ~~\$2.00~~ \$3.00 to the transportation fund.

Sec. 39. 23 V.S.A. § 307 is amended to read:

§ 307. CARRYING OF REGISTRATION CERTIFICATE

A person shall not operate a motor vehicle nor draw a trailer or semi-trailer unless the registration certificate thereof is carried in some easily accessible place in such motor vehicle. In case of the loss, mutilation or destruction of such certificate the owner of the vehicle described therein shall forthwith notify the commissioner and remit a fee of ~~\$12.00~~ \$13.00 whereupon the commissioner shall furnish such owner with a duplicate certificate. A corrected registration certificate shall be furnished by the commissioner upon request and receipt of a fee of ~~\$12.00~~ \$13.00.

Sec. 40. 23 V.S.A. § 323 is amended to read:

§ 323. TRANSFER FEES

A person who transfers the ownership of a registered motor vehicle to another, upon the filing of a new application, and upon the payment of a fee of ~~\$20.00~~ \$22.00 may have registered in his or her name another motor vehicle for the remainder of the registration period without payment of any additional registration fee, provided the proper registration fee of the motor vehicle sought to be registered is the same as the registration fee of the transferred motor vehicle. However, if the proper registration fee of the motor vehicle sought to be registered by such person is greater than the registration fee of the transferred motor vehicle, the applicant shall pay, in addition to such fee of ~~\$20.00~~ \$22.00, the difference between the registration fee of the motor vehicle previously registered and the proper fee for the registration of the motor vehicle sought to be registered.

Sec. 41. 23 V.S.A. § 361 is amended to read:

§ 361. PLEASURE CARS

The annual fee for registration of any motor vehicle of the pleasure car type, and all vehicles powered by electricity, shall be ~~\$59.00~~ \$64.00, and the biennial fee shall be ~~\$108.00~~ \$120.00.

Sec. 42. 23 V.S.A. § 364 is amended to read:

§ 364. MOTORCYCLES

The annual fee for registration of a motorcycle, with or without side car, shall be ~~\$36.00~~ \$40.00.

Sec. 43. 23 V.S.A. § 367(a)(1) is amended to read:

(a)(1) The annual fee for registration of tractors, truck-tractors, or motor trucks except truck cranes, truck shovels, road oilers, bituminous distributors, and farm trucks used as hereinafter specified shall be based on the total weight of the truck-tractor or motor truck including body and cab plus the heaviest load to be carried. In computing the fees for registration of tractors, truck-tractors or motor trucks with trailers or semi-trailers attached, except trailers or semi-trailers with a gross weight of less than 6,000 pounds, the fee shall be based upon the weight of the tractor, truck-tractor or motor truck, the weight of the trailer or semi-trailer, and the weight of the heaviest load to be carried by the combined vehicles. In addition to the fee set out in the following schedule, the fee for vehicles weighing between 10,000 and 25,999 pounds inclusive shall be an additional ~~\$29.00~~ \$31.47, the fee for vehicles weighing between 26,000 and 39,999 pounds inclusive shall be an additional ~~\$58.00~~ \$62.93, the fee for vehicles weighing between 40,000 and 59,999 pounds inclusive shall be an additional ~~\$203.04~~ \$220.30 and the fee for vehicles 60,000 pounds and over shall be an additional ~~\$319.07~~ \$346.19. The fee shall be computed at the following rates per thousand pounds of weight determined as above specified and rounded up to the nearest whole dollar, the minimum fee for registering a tractor, truck-tractor, or motor truck to 6,000 pounds shall be the same as for the pleasure car type:

~~\$12.42~~ \$13.48 when the weight exceeds 6,000 pounds but does not exceed 8,000 pounds.

~~\$14.21~~ \$15.42 when the weight exceeds 8,000 pounds but does not exceed 12,000 pounds.

~~\$15.67~~ \$17.00 when the weight exceeds 12,000 pounds but does not exceed 16,000 pounds.

~~\$16.76~~ \$18.18 when the weight exceeds 16,000 pounds but does not exceed 20,000 pounds.

~~\$17.53~~ \$19.02 when the weight exceeds 20,000 pounds but does not exceed 30,000 pounds.

~~\$17.92~~ \$19.44 when the weight exceeds 30,000 pounds but does not exceed 40,000 pounds.

~~\$18.34~~ \$19.90 when the weight exceeds 40,000 pounds but does not exceed 50,000 pounds.

~~\$18.51~~ \$20.08 when the weight exceeds 50,000 pounds but does not exceed 60,000 pounds.

~~\$19.14~~ \$20.77 when the weight exceeds 60,000 pounds but does not exceed 70,000 pounds.

~~\$19.78~~ \$21.46 when the weight exceeds 70,000 pounds but does not exceed 80,000 pounds.

~~\$20.42~~ \$22.16 when the weight exceeds 80,000 pounds but does not exceed 90,000 pounds.

Sec. 44. 23 V.S.A. § 371(a)(1) is amended to read:

(a)(1) The one-year and two-year fees for registration of a trailer or semi-trailer, except contractor's trailer or farm trailer, shall be as follows:

(A) ~~\$20.00 and \$40.00~~ \$23.00 and \$45.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of less than 1,500 pounds;

(B) ~~\$40.00 and \$80.00~~ \$46.00 and \$90.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of 1,500 pounds or more, and is drawn by a vehicle of the pleasure car type;

(C) ~~\$40.00 and \$80.00~~ \$46.00 and \$90.00, respectively, when such trailer or semi-trailer is drawn by a motor truck or tractor, when such trailer or semi-trailer has a gross weight of 1,500 pounds or more, but not in excess of 3,000 pounds;

(D) ~~\$40.00 and \$80.00~~ \$46.00 and \$90.00, respectively, when such trailer or semi-trailer is used in combination with a truck-tractor or motor truck registered at the fee provided for combined vehicles under section 367 of this title. Excepting for the fees, the provisions of this subdivision shall not apply to trailer coaches as defined in section 4 of this title nor to modular homes being transported by trailer or semi-trailer.

Sec. 45. 23 V.S.A. § 463 is amended to read:

§ 463. SALE OF VEHICLE TO GO OUT OF STATE

A registered motor vehicle dealer is authorized to issue an in-transit registration permit for the purpose of movement over the highways of certain motor vehicles otherwise required to be registered when these vehicles are sold in this state to be transported to and registered in another state or province. The commissioner of motor vehicles shall, upon request, provide registered motor vehicle dealers with such numbers of applications and special in-transit number plates for vehicles sold in this state to be transported to and registered in another state or province as shall be necessary. The commissioner is authorized to charge a fee of ~~\$3.00~~ \$5.00 for the processing of the plate application and the issuance of the plate. The dealer, upon the sale of a motor

vehicle to be transported to and registered in another state or province shall cause the application to be filled out and transmitted to the commissioner and shall attach to the vehicle the in-transit number plate corresponding to the application. No registered motor vehicle dealer shall sell, exchange, give, or transfer any application or in-transit plate to any person other than the person to whom the dealer sells or exchanges a motor vehicle to be registered in another state or province. The application shall be in a form prescribed and furnished by the commissioner. The special in-transit number plate to be attached to the vehicle will be issued in the form and design as prescribed by the commissioner and shall be valid for a period of 30 days from the date of issue.

Sec. 46. 23 V.S.A. § 608(a) amended to read:

(a) The four-year fee required to be paid the commissioner for licensing an operator of motor vehicles shall be ~~\$40.00~~ \$45.00. The two-year fee required to be paid the commissioner for licensing an operator shall be ~~\$25.00~~ \$28.00 and the two-year fee for licensing a junior operator shall be ~~\$27.00~~ \$28.00.

Sec. 47. 23 V.S.A. §§ 617(b) and (d) are amended to read:

(b) Notwithstanding the provisions of subsection (a) of this section, any licensed person may apply to the commissioner of motor vehicles for a learner's permit for the operation of a motorcycle in the form prescribed by the commissioner. The commissioner shall require payment of a fee of \$17.00 at the time application is made. After the applicant has successfully passed all parts of the motorcycle endorsement examination, other than a skill test, the commissioner may issue to the applicant a learner's permit which entitles the applicant, subject to section 615(a) of this title, to operate a motorcycle upon the public highways for a period of 120 days from the date of issuance. A motorcycle learner's permit may be renewed only twice upon payment of a \$17.00 fee. If during the original permit period and two renewals, the permittee has not successfully passed the skill test or the motorcycle rider training course, he or she may not obtain another motorcycle learner's permit for a period of 12 months from the expiration of the permit unless he or she has successfully completed the motorcycle rider training course. This section shall not affect section 602 of this title. The fee for the examination shall be \$7.00.

(d) An applicant shall pay ~~\$15.00~~ \$17.00 to the commissioner for each learner's permit that is not a motorcycle learner's permit or a duplicate or renewal thereof.

Sec. 48. 23 V.S.A. § 634(a) is amended to read:

(a) The fee for an examination for a learner's permit shall be ~~\$25.00~~ \$28.00. The fee for an examination to obtain an operator's license when the

applicant is required to pass an examination pursuant to section 632 of this title shall be ~~\$15.00~~ \$17.00.

Sec. 49. 23 V.S.A § 675(a) is amended to read:

(a) Before a suspension or revocation issued by the commissioner of a person's operator's license or privilege of operating a motor vehicle may be terminated or before a person's operator's license or privilege of operating a motor vehicle may be reinstated, there shall be paid to the commissioner a fee of ~~\$65.00~~ \$71.00 in addition to any other fee required by statute. This section shall not apply to suspensions issued under the provisions of chapter 11 of this title nor suspensions issued for physical disabilities or failing to pass reexamination. The commissioner shall not reinstate the license of a driver whose license was suspended pursuant to section 1205 of this title until the commissioner receives certification from the court that the costs due the state have been paid.

Sec. 50. 23 V.S.A. § 1230 is amended to read:

For each inspection certificate issued by the department of motor vehicles, the commissioner shall be paid ~~\$3.00~~ \$4.00 provided that state and municipal inspection stations that inspect only state or municipally owned and registered vehicles shall not be required to pay a fee.

Sec. 51. 23 V.S.A. § 1392(17) is amended to read:

(17) Notwithstanding the gross vehicle weight provisions of subdivision (4) of this section, a truck trailer combination or truck tractor, semi-trailer combination with six or more load bearing axles and specially equipped for hauling unprocessed milk, unprocessed forest or unprocessed quarry products shall be allowed to bear a maximum of 99,000 pounds by special annual permit, which shall expire coincidentally with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following the date of issue, for operating on designated routes on the state and town highways, subject to the following:

(A) The combination of vehicles must have as a minimum, a distance of 51 feet between extreme axles.

(B) The axle weight provisions of section 1391 of this title and subdivision 1392(6) of this section shall also apply to vehicles permitted under this subdivision.

(C) When determining the fine for a gross overweight violation of this subdivision, the fine for any portion of the first 10,000 pounds over the permitted weight shall be the same as provided in section 1391a of this title,

and for overweight violations 10,001 pounds or more over the permitted weight, the fine schedule provided in section 1391a shall be doubled.

(D) The weight permitted by this subdivision shall be allowed for foreign trucks which are registered or permitted for 99,000 pounds in a state or province which recognizes Vermont vehicles for weights consistent with this subdivision.

(E) The provisions of this subdivision shall not apply to operation on the interstate and defense highway system.

(F) The fee for the annual permit as provided in this subdivision shall be ~~\$350.00~~ \$500.00.

(G) For the purposes of this subdivision, the following definitions shall apply:

(i) unprocessed milk products as defined in 23 V.S.A. § 4(55);

(ii) unprocessed forest products as defined in 23 V.S.A. § 1392(13);

(iii) unprocessed quarry products shall be quarried rock in block or blocks as it would be removed from the quarry.

Sec. 52. 23 V.S.A. § 1402(a) and (b) are amended to read:

(a) Overweight, overwidth, indivisible overlength, and overheight permits. Overweight, overwidth, indivisible overlength and overheight permits shall be signed by the commissioner or by his or her agent and a copy shall be kept in the office of the commissioner or in a location approved by the commissioner. Except as provided in subsection (c) of this section, a copy shall also be available in the towing vehicle and must be available for inspection on demand of a law enforcement officer. Before operating a traction engine, tractor, trailer, motor truck or other motor vehicle, the person to whom a permit to operate in excess of the weight, width, indivisible overlength and height limits established by this title is granted shall pay a fee of ~~\$20.00~~ \$35.00 for each single trip permit or ~~\$70.00~~ \$100.00 for a blanket permit, except that the fee for a fleet blanket permit shall be ~~\$70.00~~ \$100.00 for the first unit and ~~\$1.00~~ \$5.00 for each unit thereafter. At the option of a carrier, an annual permit for the entire fleet, to operate over any approved route, may be obtained for ~~\$70.00~~ \$100.00 for the first tractor and ~~\$1.00~~ \$5.00 for each additional tractor, up to a maximum fee of \$1,000.00. The fee for a fleet permit shall be based on the entire number of tractors owned by the applicant. An applicant for a fleet permit may apply for any number of specific routes, each of which shall be reviewed with regard to the characteristics of the route and the type of equipment operated by the applicant. When the weight or size of the

vehicle-load are considered sufficiently excessive for the routing requested, the agency of transportation shall, on request of the commissioner, conduct an engineering inspection of the vehicle-load and route, for which a fee of \$300.00 will be added to the cost of the permit if the load is a manufactured home. For all other loads of any size or with gross weight limits less than 150,000 pounds, the fee shall be \$800.00 for any engineering inspection that requires up to eight hours to conduct. If the inspection requires more than eight hours to conduct, the fee shall be \$800.00 plus \$60.00 per hour for each additional hour required. If the vehicle and load weigh 150,000 pounds or more but not more than 200,000 pounds, the engineering inspection fee shall be \$2,000.00. If the vehicle and load weigh more than 200,000 pounds but not more than 250,000 pounds, the engineering inspection fee shall be \$5,000.00. If the vehicle and load weigh more than 250,000 pounds, the engineering inspection fee shall be \$10,000.00. The study must be completed prior to the permit being issued. Prior to the issuance of a permit, an applicant whose vehicle weighs 150,000 pounds or more, or is 15 or more feet in width or height, shall file with the commissioner a special certificate of insurance showing minimum coverage of \$250,000.00 for death or injury to one person, \$500,000.00 for death or injury to two or more persons and \$250,000.00 for property damage, all arising out of any one accident.

(b) Overlength permits. Except as provided in ~~subsection 1432(f)~~ subsections 1432(c) and (e) of this title, it shall be necessary to obtain an overlength permit as follows:

~~(1) For vehicles with a trailer or semitrailer which are longer than 68 feet but not longer than 72 feet off the truck network established in subsection 1432(e) of this title and the distance between the steering axle and the rearmost tractor axle is 23 feet or less. In such cases, the vehicle may be operated with a single or multiple trip overlength permit issued by the department of motor vehicles at no cost or, for a fee, by an entity authorized under subsection 1400(d) of this title for routes approved by the agency of transportation.~~

~~(2) For vehicles with a trailer or semitrailer longer than 68 feet but not longer than 72 feet off the truck network established in subsection 1432(e) of this title and the distance between the steering axle and the rearmost tractor axle is more than 23 feet. In such cases, the vehicle may be operated with a single trip overlength permit issued by the department of motor vehicles at no cost for routes approved by the agency of transportation.~~

~~(3)~~ For vehicles with a trailer or semitrailer longer than ~~72~~ 75 feet anywhere in the state on highways approved by the agency of transportation. In such cases, the vehicle may be operated with a single trip overlength permit issued by the department of motor vehicles for a fee of ~~\$10.00~~ \$25.00. If the

vehicle is 100 feet or more in length, the permit applicant shall file with the commissioner of motor vehicles, a special certificate of insurance showing minimum coverage of \$250,000.00 for death or injury to one person, \$500,000.00 for death or injury to two or more persons and \$250,000.00 for property damage, all arising out of any one accident.

(2) Notwithstanding the provisions of this section, the agency of transportation may erect signs at those locations where it would be unsafe to operate vehicles in excess of 68 feet in length.

Sec. 53. 23 V.S.A. § 2002(a) is amended to read:

(a) The commissioner shall be paid the following fees:

(1) For any certificate of title, including a salvage certificate of title, ~~\$28.00~~ \$31.00;

(2) For each security interest noted upon a certificate of title, including a salvage certificate of title, ~~\$7.00~~ \$9.00;

(3) For a certificate of title after a transfer, ~~\$28.00~~ \$31.00;

(4) For each assignment of a security interest noted upon a certificate of title, ~~\$7.00~~ \$9.00;

(5) For a duplicate certificate of title, including a salvage certificate of title, ~~\$28.00~~ \$31.00;

(6) For an ordinary certificate of title issued upon surrender of a distinctive certificate, ~~\$28.00~~ \$31.00;

(7) For filing a notice of security interest, ~~\$7.00~~ \$9.00;

(8) For a certificate of search of the records of the motor vehicle department, for each motor vehicle searched against, \$20.00;

(9) For filing an assignment of a security interest, ~~\$7.00~~ \$9.00;

(10) For a certificate of title after a security interest has been released, ~~\$28.00~~ \$31.00;

(11) For a certificate of title for a motor vehicle granted a veteran by the veterans' administration and exempt from registration fees pursuant to section 378 of this title, no fee;

(12) For a corrected certificate of title, ~~\$28.00~~ \$31.00.

Sec. 54. 23 V.S.A. § 3802(a) is amended to read:

(a) The commissioner shall be paid the following fees:

(1) for filing an application for a first certificate of title, ~~\$15.00~~ \$19.00;

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- (2) for each security interest noted upon a certificate of title, ~~\$7.00~~ \$9.00;
- (3) for a certificate of title after a transfer, ~~\$15.00~~ \$19.00;
- (4) for each assignment of a security interest noted upon a certificate of title, ~~\$7.00~~ \$9.00;
- (5) for a duplicate certificate of title, ~~\$15.00~~ \$19.00;
- (6) for an ordinary certificate of title issued upon surrender of a distinctive certificate, ~~\$15.00~~ \$19.00;
- (7) for filing a notice of security interest, ~~\$7.00~~ \$9.00;
- (8) for a certificate of search of the records of the motor vehicle department for each vessel, snowmobile or all-terrain vehicle searched against, \$20.00;
- (9) for filing an assignment of a security interest, ~~\$7.00~~ \$9.00;
- (10) for a certificate of clear title after the security interest or interests have been released, ~~\$15.00~~ \$19.00;
- (11) for a corrected certificate of title, ~~\$15.00~~ \$19.00.

Sec. 55. 32 V.S.A. § 8903(a), (b), and (d) are amended to read:

(a)(1) There is hereby imposed upon the purchase in Vermont of a motor vehicle by a resident a tax at the time of such purchase, payable as hereinafter provided. The amount of the tax shall be six percent of the taxable cost of a:

pleasure car as defined in 23 V.S.A. § 4;

motorcycle as defined in 23 V.S.A. § 4;

motor home as defined in subdivision 8902(11) of this title; or

vehicle weighing up to 10,099 pounds, registered pursuant to 23 V.S.A. § 367, other than a farm truck.

(2) For any other motor vehicle it shall be six percent of the taxable cost of the motor vehicle or ~~\$1,680.00~~ \$1,850.00 for each motor vehicle, whichever is smaller, except that pleasure cars which are purchased, leased or otherwise acquired for use in short-term rentals shall be subject to taxation under subsection (d) of this section.

(b)(1) There is hereby imposed upon the use within this state a tax of six percent of the taxable cost of a:

pleasure car as defined in 23 V.S.A. § 4;

motorcycle as defined in 23 V.S.A. § 4;

motor home as defined in subdivision 8902(11) of this title; or

vehicle weighing up to 10,099 pounds, registered pursuant to 23 V.S.A. § 367, other than a farm truck.

(2) For any other motor vehicle it shall be six percent of the taxable cost of a motor vehicle, or ~~\$1,680.00~~ \$1,850.00 for each motor vehicle, whichever is smaller, by a person at the time of first registering or transferring a registration to such motor vehicle payable as hereinafter provided, except no use tax shall be payable hereunder if the tax imposed by subsection (a) of this section has been paid, or the vehicle is a pleasure car which was purchased, leased or otherwise acquired for use in short-term rentals, in which case the vehicle shall be subject to taxation under subsection (d) of this section.

(d) There is hereby imposed a use tax on the rental charge of each transaction, in which the renter takes possession of the vehicle in this state, during the life of a pleasure car purchased for use in short-term rentals, which tax is to be collected by the rental company from the renter and remitted to the commissioner. The amount of the tax shall be ~~seven~~ nine percent of the rental charge. Rental charge means the total rental charge for the use of the pleasure car, but does not include a separately stated charge for insurance, or recovery of refueling cost, or other separately stated charges which are not for the use of the pleasure car. In the event of resale of the vehicle in this state for use other than short-term rental, such transaction shall be subject to the tax imposed by subsection (a) of this section.

Sec. 56. 23 V.S.A. § 476 is added to read:

§ 476. MOTOR VEHICLE WARRANTY FEE

A motor vehicle warranty fee of \$5.00 is imposed on the registration of each new motor vehicle in this state not including trailers, tractors, motorized highway building equipment, road-making appliances, snowmobiles, motorcycles, mopeds, or trucks with a gross vehicle weight over 12,000 pounds.

* * * Snowmobile and Motorboat Registration Fees * * *

Sec. 57. 23 V.S.A. § 3204 is amended to read:

§ 3204. REGISTRATION FEES AND DEALER PLATES

(a) Fees. Registration fees for snowmobiles other than as provided for in subsection (b) of this section are ~~\$15.00~~ \$25.00 for residents and ~~\$22.00~~ \$32.00 for nonresidents. Duplicate registration certificates may be obtained upon payment of ~~\$2.00~~ \$5.00.

(b)(1) Dealer; manufacturer and repair plates; fees. Unless exempted pursuant to subsection 3205(d) of this title, any person engaged in the manufacture or sale of snowmobiles shall obtain registration certificates and identifying number plates subject to such rules as may be adopted by the commissioner which shall be valid for the following purposes only: testing; adjusting; demonstrating; temporary use of customers for a period not to exceed 14 days; private business or pleasure use of such person or members of his or her immediate family; and use at fairs, shows or races when no charge is made for such use.

(2) Fees. Fees for dealer registration certificates shall be \$40.00 for the first certificate issued to any person and \$5.00 for any additional certificate issued to the same person within the current registration period. Fees for temporary number plates shall be \$1.00 for each plate issued.

(c) Temporary registration pending issuance of permanent registration. The commissioner, by rules adopted pursuant to 3 V.S.A. chapter 25, shall provide for the issuance of temporary registrations of snowmobiles pending issuance of the permanent registration. VAST shall be an agent of the commissioner for the issuance of such temporary registrations. The fees for the temporary registrations shall be ~~\$15.00~~ \$25.00 for residents and ~~\$22.00~~ \$32.00 for nonresidents and shall also constitute payment of the registration fee required by subsection (a) of this section. Temporary registrations shall be kept with the snowmobile while being operated and shall authorize operation without the registration decal being affixed for a period not to exceed 60 days from the date of issue.

* * *

Sec. 58. 23 V.S.A. § 3214 is amended to read:

§ 3214. ALLOCATION OF FEES AND PENALTIES; LIABILITY

(a) The amount of \$5.00 from the sale of every resident and nonresident snowmobile registration shall be allocated to the agency of transportation. The balance of fees and penalties collected under this subchapter, except interest, are is hereby allocated to the agency of natural resources for use by VAST for development and maintenance of the statewide snowmobile trail program (SSTP), for trails' liability insurance, and an amount equal to \$5.00 from the sale of every resident and nonresident snowmobile registration shall be allocated to contract for law enforcement services with any constable, sheriff's department, municipal police department, the department of public safety, and the department of fish and wildlife for purposes of trail compliance pursuant to this chapter; the allocation for snowmobile law enforcement shall be included as a part of the annual expenditure plan required by section 3215 of this chapter. The departments of public safety and fish and wildlife are authorized

to contract with VAST to provide these law enforcement services. The agency of natural resources may retain for its use up to \$11,500.00 during each fiscal year to be used for the oversight of the state snowmobile trail program.

* * *

Sec. 59. 23 V.S.A. § 3305(b) is amended to read:

(b) Annually, the owner of each motorboat required to be registered by this state shall file an application for a number with the commissioner of motor vehicles on forms approved by him or her. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of ~~\$17.00~~ \$22.00 and a surcharge of \$5.00 for a motorboat in class A; by a fee of ~~\$28.00~~ \$33.00 and a surcharge of \$10.00 for a motorboat in class 1; by a fee of ~~\$55.00~~ \$60.00 and a surcharge of \$10.00 for a motorboat in class 2; by a fee of ~~\$121.00~~ \$126.00 and a surcharge of \$10.00 for a motorboat in class 3. Upon receipt of the application in approved form, the commissioner shall enter the application upon the records of the department of motor vehicles and issue to the applicant a registration certificate stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules of the commissioner in order that it may be clearly visible. The registration shall be void one year from the first day of the month following the month of issue. A vessel of less than 10 horsepower used as a tender to a registered vessel shall be deemed registered, at no additional cost, and shall have painted or attached to both sides of the bow, the same registration number as the registered vessel with the number "1" after the number. The number shall be maintained in legible condition. The registration certificate shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation. A duplicate registration may be obtained upon payment of a fee of \$2.00 to the commissioner. Notwithstanding section 3319 of this chapter, \$5.00 of each registration fee shall be allocated to the transportation fund. The remainder of the fee shall be allocated in accordance with section 3319 of this title.

Sec. 60. 23 V.S.A. § 3214 is amended to read:

§ 3214. ALLOCATION OF FEES AND PENALTIES; LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT SERVICES

(a) The amount of \$5.00 from the sale of every resident and nonresident snowmobile registration shall be allocated to the agency of transportation. The balance of fees and penalties collected under this subchapter, except interest, ~~are~~ is hereby allocated to the agency of natural resources for use by VAST for

development and maintenance of the statewide snowmobile trail program (SSTP), for trails' liability insurance, and an amount equal to \$5.00 from the sale of every resident and nonresident snowmobile registration shall be allocated to contract for law enforcement services with any constable, sheriff's department, municipal police department, the department of public safety, and the department of fish and wildlife for purposes of trail compliance pursuant to this chapter; the allocation for snowmobile law enforcement shall be included as a part of the annual expenditure plan required by section 3215 of this chapter. The departments of public safety and fish and wildlife are authorized to contract with VAST to provide these law enforcement services. The agency of natural resources may retain for its use up to \$11,500.00 during each fiscal year to be used for the oversight of the state snowmobile trail program.

* * *

Sec. 61. 10 V.S.A. § 501 is amended to read:

§ 501. FEES

Subject to the provisions of ~~section~~ subsection 486(c) of this title, an applicant for an official business directional sign or an information plaza plaque shall pay to the travel information council an initial license fee and an annual renewal fee as established by this section.

(1) Initial license fees shall be as follows:

(A) for full-sized or half-sized business directional signs, ~~\$75.00~~ \$175.00 per sign;

(B) for information plaza plaques, \$25.00 per plaque; however, if more than one plaque is requested by a business at the same time, a ten percent discount shall be given on the second and subsequent plaques.

(2) Annual renewal fees ~~the amount, rounded to the next higher even whole dollar, determined by dividing the estimated cost of maintenance and administration of the official business directional sign and information plaza programs during the following fiscal year by the total number of licensed signs and plaques eligible for renewal during the following fiscal year; except that the renewal fees shall not exceed the following amounts~~ shall be as follows:

(A) for full and half-sized official business directional signs, ~~\$60.00~~ \$125.00 per sign;

* * *

* * * Passenger Rail Equipment * * *

Sec. 62. PASSENGER RAIL EQUIPMENT

In consultation with the joint fiscal office, the agency shall examine the alternatives and relative costs and benefits and service implications available to the state with respect to the purchase of passenger rail equipment to be used in place of the existing Amtrak equipment employed in the Vermonter and Ethan Allen services, including the purchase of refurbished equipment. The agency shall deliver a report of its analysis to the house and senate committees on transportation on or before January 15, 2010.

* * * State-Owned Railroad Property * * *

Sec. 63. Sec. 17(b)(2) of No. 175 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 31 of No. 164 of the Acts of the 2007 Adj. Sess. (2008), is further amended to read:

(2) town of Morristown; valuation section V50/51; approximately 3.7 acres adjacent to engine house and currently leased for batch plant, to be conveyed to lessee S. T. Griswold & Company, Inc. or assignee; however, if this conveyance is not consummated, the Lamoille Economic Development Corporation shall have the option to purchase; and

Sec. 64. Sec. 17(e) of No. 175 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 31 of No. 164 of the Acts of the 2007 Adj. Sess. (2008), is further amended to read:

(e) The authority granted by this section shall expire on ~~June 30~~ December 31, 2009.

* * * Cancellation of Projects * * *

Sec. 65. CANCELLATION OF PROJECTS

Pursuant to 19 V.S.A. § 10g(f) (legislative approval for cancellation of projects), the general assembly approves cancellation of the following projects:

(1) Town highway bridges:

(A) Albany BRO 1449(23) (BR 30 on TH 25/Poor Farm Road, over Black River) (town has requested termination);

(B) Chester BRO 1442(31) (BR 63 on TH 9/First Avenue, over Williams River) (town has requested termination);

(C) Richford TH3 0305 (BR 28 on TH 18/Noyes Street, over Loveland Brook) (town has requested termination); and

(D) Woodstock BRO 1444(33) (BR 37 on TH 66, over Kedron Brook) (town has requested termination).

(2) Bicycle and pedestrian facilities: Irasburg STP WALK(16) (installation of sidewalks and curbs along VT 58) (town has requested termination).

* * * Transportation Fund; Sales of Surplus Property * * *

Sec. 66. 19 V.S.A. § 11(8) is amended to read:

(8) other miscellaneous sources including the sale of maps, plans and reports, fees collected by the travel information council and leases for property at state-owned airports and railroads, proceeds from the sale of state surplus property under the provisions of 29 V.S.A. §§ 1556 and 1557, and proceeds from the sale of recycled materials.

Sec. 67. 29 V.S.A. § 1557(b) is amended to read:

(b) Transfer charges and credits shall be made against the appropriation of the respective department or agency. Funds credited shall be classified as special funds, and managed in accordance with subchapter 5 of chapter 7 of Title 32; provided, however, that any funds credited to the agency of transportation shall be transferred to the transportation fund.

* * * Relinquishment of State Highway Segments

to Municipal Control * * *

Sec. 68. RELINQUISHMENT OF VERMONT ROUTE 15 IN THE
VILLAGE OF ESSEX JUNCTION

(a) Under the authority of 19 V.S.A. § 15(2), approval is granted for the secretary of transportation to enter into an agreement with the village of Essex Junction to relinquish to the village's jurisdiction a segment of the state highway known as Vermont Route 15 (Pearl Street) in the village of Essex Junction starting at the Essex Junction village boundary, near the intersection with Susie Wilson Road (TH #4), and extending in an easterly direction for 1.004 miles, connecting to existing class 1 town highway TH #1 at a point 0.261 miles west of West Hillcrest Road (TH #551). The relinquishment shall include the Vermont Route 15 approaches to West Street Extension (TH #5). Upon relinquishment, the former state highway shall become a class 1 town highway.

(b) Control of the highway, not including ownership of the lands or easements within the highway right-of-way, shall be relinquished to the village of Essex Junction. The village of Essex Junction shall not sell or abandon any portion of the relinquishment areas or allow any encroachments within the relinquishment areas without written permission of the agency of transportation.

* * * Town Highways * * *

Sec. 69. 19 V.S.A. § 305(g) is amended to read:

(g) The agency shall provide each town with a map of all of the highways in that town together with the mileage of each class 1, 2, ~~and 3,~~ and 4 highway, as well as each trail, and such other information as the agency deems appropriate.

Sec. 70. 19 V.S.A. § 305(i) is amended to read:

(i)(1) Prior to a vote to discontinue town highways provided in subsection (h) of this section, the legislative body shall hold a public informational hearing on the question by posting warnings at least 30 days prior to the hearing in at least two public places within the municipality and in the town clerk's office. The notice shall include the most recently available map of all town highways prepared by the agency of transportation pursuant to subsection (g) of this section. At least 30 days prior to the hearing, the legislative body shall also deliver the warning and map together with proof of receipt or mail by certified mail, return receipt requested, to each of the following:

(A) The chair of any municipal planning commission in the municipality;

(B) The chair of a conservation commission, established under chapter 118 of Title 24, in the municipality;

(C) The chair of the legislative body of each abutting municipality;

(D) The executive director of the regional planning commission of the area in which the municipality is located; ~~and~~

(E) The commissioner of forests, parks and recreation; and

(F) The secretary of transportation.

(2) The hearing shall be held within the 10 days preceding the meeting at which the legislative body will vote whether to discontinue all town highways as provided in subsection (h) of this section.

* * * Trucks and Buses; Use of Tire Chains * * *

Sec. 71. 23 V.S.A. § 1006c is added to read:

§ 1006c. TRUCKS AND BUSES; CHAINS AND TIRE REQUIREMENTS

(a) The traffic committee may require the use of tire chains or winter tires on specified portions of state highways during periods of winter weather for motor coaches, truck-tractor-semitrailer combinations, and truck-tractor-trailer combinations.

(b) When tire chains or winter tires are required, advance notice shall be given to the traveling public through signage and, whenever possible, through public service announcements. In areas where tire chains or winter tires are required, there shall be an adequate area for vehicles to pull off the traveled way to affix any chains that might be required.

(c) Under chapter 25 of Title 3, the traffic committee may adopt such rules as are necessary to administer this section and may delegate this authority to the secretary.

Sec. 72. USE OF CHAINS; IMPLEMENTATION

The use of chains shall not be required until signage and designated areas are available for vehicles to affix tire chains before proceeding further. Advanced public notice of these requirements shall be given to interested parties in the most feasible manner possible.

* * * Public Transportation Planning * * *

Sec. 73. 24 V.S.A. § 5089 is amended to read:

§ 5089. PLANNING

~~(a) By January 31, 1996, all public transit systems shall have completed a short range public transit plan. In the meantime, the agency of transportation may continue to provide funding for capital, statewide operating and new services.~~

~~(b) The short range public transit plans must be coordinated with the efforts of the regional planning commission under the transportation plan.~~

(e) The agency of transportation's public transit plan for the state shall be updated amended no less frequently than every five years ~~so as to include, and incorporate the public transportation elements of regional plans that have not been disapproved under the provisions of chapter 117 of this title.~~ The development of the state public transit plan shall include consultation with public transit providers, the metropolitan planning organization, and the regional planning commissions and their transportation advisory committees to ensure the integration of transit planning with the transportation planning initiative as well as conformance with chapter 117 of this title, (municipal and regional planning and development). Regional plans, together with the agency of transportation's public transit plan shall function to coordinate the provision of public, private nonprofit, and private for-profit regional public transit services, in order to ensure effective local, regional and statewide delivery of services.

(b) Recognizing that the growing demand for new regional and commuter services must be considered within the context of the continuing need for local

transit services that meet basic mobility needs, the agency of transportation shall consult annually with the regional planning commissions and public transit providers in advance of the award of available planning funds. The agency shall maintain a working list of both short- and long-term planning needs, goals, and objectives that balances the needs for regional service with the need for local service. Available planning funds shall be awarded in accordance with state and federal law and as deemed necessary and appropriate by the agency following consultation with the regional planning commissions and the public transit providers. The agency shall report annually to the general assembly on planning needs, expenditures, and cooperative planning efforts.

Sec. 74. 23 V.S.A. § 372 is amended to read:

§ 372. MOTOR BUS

The annual fee for registration of a motor bus shall be based on the actual weight of such bus, plus passenger carrying capacity at 150 pounds per person, and shall be \$1.40 per 100 pounds of such weight, except for motor buses registered under section 372a or 376 of this title. Fractions of a hundred-weight shall be disregarded. The minimum fee for the registration of any motor bus shall be \$43.00.

* * * Public Transit * * *

Sec. 75. PUBLIC TRANSIT

From the funds allocated to the public transit general capital program, \$100,000 in federal funds shall be held by the agency of transportation in reserve to cover shortfalls in the funding of the elders and persons with disabilities program (E&D) that occur as a result of unanticipated demand for non-Medicaid transportation services. Transit agencies that have grant agreements with the agency for the provision of E&D services shall be eligible to receive disbursements from the reserve. The agency shall develop a written policy to govern the evaluation and prioritization of applications for disbursements from the reserve to ensure access to the reserve funds is limited to transit agencies that have administered appropriately constrained E&D programs. The agency shall notify all transit agencies with grant agreements for the provision of E&D services of the policy no later than July 1, 2009, and all disbursements from the reserve shall be in accordance with the policy.

* * * Local Match for Public Transportation Service * * *

Sec. 76. 23 V.S.A. § 372a is amended to read:

§ 372a. LOCAL TRANSIT PUBLIC TRANSPORTATION SERVICE
BUSES; FEE

(a) The annual registration fee for any motor bus used in local transit or public transportation service ~~entirely within any city or town, or not over 10 miles beyond the boundaries thereof,~~ shall be \$45.00, except for those vehicles owned by a municipality for such service that are subject to the provisions of section 376 of this title. In the event a bus registered for local transit or public transportation service is thereafter registered for general use during the same registration year, such fee shall be applied towards the fee for general registration.

(b) For the purposes of this section, a public transportation service bus is a bus used by a nonprofit public transit system as defined in 24 V.S.A. § 5088(3), and a local transit bus is a motor bus used entirely within or not more than 10 miles beyond the boundaries of a city or town.

* * * Motor Buses; Diesel Tax * * *

Sec. 77. 23 V.S.A. § 3003(d)(1)(A) through (F) and (d)(2) are amended to read:

(A) uses, the taxation of which would be precluded by the laws and Constitution of the United States and this state;

(B) uses for agricultural purposes not conducted on the highways of the state;

(C) uses by any state, municipal, school district, fire district or other governmentally owned vehicles for official purposes;

(D) uses by any vehicle off the highways of the state; and

(E) ~~uses by motor buses registered in this state;~~ and

~~(F)~~ uses by any vehicle registered as a farm truck under subsection 367(f) of this title.

(2) Provided, however, that no tax shall be due with respect to fuel for use in any state, municipal, school district, fire district, nonprofit public transit system as defined in 24 V.S.A. § 5088(3), or other ~~governmentally owned~~ vehicle owned, leased, or contracted for other than single-trip use by a government entity, as long as the distributor takes from the purchaser at the time of sale an exemption certificate in the form prescribed by the commissioner; and provided, further, that no tax shall be due with respect to fuel delivered for farm use to a farm bulk fuel storage tank.

* * * Public Transit Report * * *

Sec. 78. PUBLIC TRANSIT REPORT

(a) Public transit report. Consistent with the goals, findings, and recommendations of the two most recent legislative reports prepared by

VTrans regarding a review of potential changes to Vermont's public transit service delivery model (Sec. 35 and Sec. 45 reports), VTrans shall, in continued cooperation with the legislature's joint fiscal office, conduct such further analysis as is necessary to generate specific recommendations for improving the efficient and effective delivery of public transit services in Vermont.

(b) Goal of report. The goal of the report is to recommend a governance and funding structure for public transportation that creates the most efficient use of taxpayer funds while simultaneously creating the most efficient system of public transportation services consistent with the statutory policy goals in 24 V.S.A. § 5083. The report shall:

(1) Make use of the data and information currently available and assess the strengths and weaknesses of the public transit delivery system;

(2) Review the pros and cons of realistic alternative service delivery models;

(3) Present a recommendation for a systematic approach toward changing, evolving, or maintaining the existing service delivery model and propose a configuration under which the service delivery model maximizes state, federal, and local investments into the broad range of public transit services.

(c) The agency shall direct the report with the involvement of the agency of human services and of all public transit providers in the state who are direct grantees and subrecipients of state and federal funds.

(d) Consistent with federal United We Ride initiatives, the report shall consider all federal and state funding invested through or by state and federal agencies on public, human services, and related transportation programs and shall evaluate the potential for achieving greater efficiency through coordination of effort or consolidation of funding and effort.

(e) The report shall be delivered to the general assembly on or before February 15, 2010.

* * * VASA Trail Insurance * * *

Sec. 79. 23 V.S.A. § 3513 is amended to read:

§ 3513. LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR
LAW ENFORCEMENT SERVICES

(a) The amount of 85 percent of the fees and penalties collected under this subchapter, except interest, is hereby allocated to the agency of natural resources for use by the Vermont ATV sportsman's association (VASA) for

development and maintenance of a statewide ATV trail program ~~on private property~~, for trail liability insurance, and to contract for law enforcement services with any constable, sheriff's department, municipal police department, the department of public safety, and the department of fish and wildlife for purposes of trail compliance pursuant to this chapter. The departments of public safety and fish and wildlife are authorized to contract with VASA to provide these law enforcement services. The agency of natural resources may retain for its use up to \$7,000.00 during each fiscal year to be used for administration of the state grant that supports this program.

* * *

* * * All-Terrain Vehicles * * *

Sec. 80. 23 V.S.A. § 3502 is amended to read:

§ 3502. REGISTRATION

(a) An all-terrain vehicle may not be operated unless registered pursuant to this chapter or any other section of this title, by the state of Vermont and unless the all-terrain vehicle displays a valid Vermont ATV Sportsman's Association (VASA) Trail Access Decal (TAD) when operating on a VASA trail, except when operated:

* * *

Sec. 81. 23 V.S.A. § 3506 is amended to read:

§ 3506. OPERATION

* * *

(b) An all-terrain vehicle may not be operated:

* * *

(3) On any privately owned land or body of private water unless:

* * *

(B) the operator has, on his or her person, the written consent of the owner or lessee of the land to operate an all-terrain vehicle in the specific area and during specific hours and/or days in which the operator is operating, ~~or proof that he or she is a member of a club or association to which consent has been given orally or in writing~~; or the all-terrain vehicle displays a valid TAD decal as required by subsection 3502(a) of this title that serves as proof that the all-terrain vehicle and its operator, by virtue of the TAD, are members of a VASA-affiliated club to which such consent has been given orally or in writing to operate an all-terrain vehicle in the area in which the operator is operating;

* * *

* * * Two-Wheeled All-Terrain Vehicles * * *

Sec. 82. 23 V.S.A. § 3501(5) is amended to read:

(5) “All-terrain vehicle” or “ATV” means any nonhighway recreational vehicle, except snowmobiles, having no less than ~~three~~ two low pressure tires (10 pounds per square inch, or less), not wider than 60 inches with two-wheel ATVs having permanent, full-time power to both wheels, and having a dry weight of less than 1,700 pounds, when used for cross-country travel on trails or on any one of the following or a combination thereof: land, water, snow, ice, marsh, swampland, and natural terrain. An ATV on a public highway shall be considered a motor vehicle, as defined in section 4 of this title, only for the purposes of those offenses listed in subdivisions 2502(a)(1)(H), (N), (R), (U), (Y), (FF), (GG), (II), and (ZZ); (2)(A) and (B); (3)(A), (B), (C), and (D); (4)(A); and (B) and (5) of this title and as provided in section 1201 of this title. An ATV shall not include an electric personal assistive mobility device.

* * * One Registration Plate Sticker * * *

* * * Bright Futures Plate * * *

Sec. 83. 23 V.S.A. § 304c is amended to read:

§ 304c. MOTOR VEHICLE REGISTRATION PLATES: BUILDING
BRIGHT SPACES FOR BRIGHT FUTURES FUND

(a) The commissioner shall, upon application, issue “building bright spaces for bright futures fund,” hereinafter referred to as “the bright futures fund,” registration plates for use only on vehicles registered at the pleasure car rate, ~~and~~ on trucks registered for less than 26,001 pounds, on vehicles registered to state agencies under section 376 of this title, and excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The commissioner of motor vehicles shall utilize the graphic design recommended by the commissioner of social and rehabilitation services for the special plates to enhance the public awareness of the state’s interest in supporting children’s services. Applicants shall apply on forms prescribed by the commissioner of motor vehicles, and shall pay an initial fee of \$20.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a bright futures fund plate shall pay a renewal fee of \$20.00. The commissioner shall adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection.

* * *

* * * Design-Build Contracts * * *

Sec. 84. 19 V.S.A. chapter 26 is added to read:

CHAPTER 26. DESIGN-BUILD CONTRACTS

§ 2601. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings:

(1) “Best value” means the highest overall value to the state, considering quality and cost.

(2) “Design-build contracting” means a method of project delivery whereby a single entity is contractually responsible to perform design, construction, and related services.

(3) “Major participant” means any entity that would have a major role in the design or construction of the project as specified by the agency in the request for proposals.

(4) “Project” means the highway, bridge, railroad, airport, trail, transportation, building, or other improvement being constructed or rehabilitated, including all professional services, labor, equipment, materials, tools, supplies, warranties, and incidentals needed for a complete and functioning product.

(5) “Proposal” means an offer by the proposer to design and construct the project in accordance with all request-for-proposals provisions for the price contained in the proposal.

(6) “Proposer” means an individual, firm, corporation, limited-liability company, partnership, joint venture, sole proprietorship, or other entity that submits a proposal. After contract execution, the successful proposer is the design-builder.

(7) “Quality” means those features that the agency determines are most important to the project. Quality criteria may include quality of design, constructability, long-term maintenance costs, aesthetics, local impacts, traveler and other user costs, service life, time to construct, and other factors that the agency considers to be in the best interest of the state.

§ 2602. AUTHORIZATION

(a) Notwithstanding section 10 of this title or any other provision of law, the agency may use design-build contracting to deliver projects. The agency may evaluate and select proposals on either a best-value or a low-bid basis. If the scope of work requires substantial engineering judgment, the quality of

which may vary significantly as determined by the agency, then the basis of award shall be best-value.

(b) The agency shall identify those projects it believes are candidates for design-build contracting, including those involving extraordinary circumstances, such as emergency work, unscheduled projects, or loss of funding.

(c) The agency retains the authority to terminate the contracting process at any time, to reject any proposal, to waive technicalities, or to advertise for new proposals if the agency determines that it is in the best interest of the state.

§ 2603. PREQUALIFICATION

(a) The agency may require that entities be prequalified to submit proposals. If the agency requires prequalification, it shall give public notice requesting qualifications from interested entities electronically through the agency's publicly accessible website or through advertisements in newspapers. The agency shall issue a request-for-qualifications package to all entities requesting one in accordance with the notice.

(b) Interested entities shall supply for themselves and for all major participants all information required by the agency. The agency may investigate and verify all information received. All financial information, trade secrets, or other information customarily regarded as confidential business information submitted to the agency shall be confidential.

(c) The agency shall evaluate and rate all entities submitting a conforming statement of qualifications and select the most qualified entities to receive a request for proposals. The agency may select any number of entities, except that if the agency fails to prequalify at least two entities, the agency shall readvertise the project.

§ 2604. REQUEST FOR PROPOSALS

The agency may issue a request for proposals, which shall set forth the scope of work, design parameters, construction requirements, time constraints, and all other requirements that have a substantial impact on the cost or quality of the project and the project development process, as determined by the agency. The request for proposals shall include the criteria for acceptable proposals. For projects to be awarded on a best-value basis, the scoring process and quality criteria must also be contained in the request for proposals. In the agency's discretion, the request for proposals may provide for a process, including the establishment of a team to review proposals, for the agency to review conceptual technical elements of each proposal before full proposal submittal for the purposes of identifying defects that would cause rejection of the proposal as nonresponsive. All such conceptual submittals and responses

shall be confidential until award of the contract. The request for proposals may also provide for a stipend upon specified terms to unsuccessful proposers that submit proposals conforming to all request-for-proposals requirements.

§ 2605. LOW-BID AWARD

If the basis of the award of responsive proposals is low-bid, then each proposal, including the price or prices, shall be sealed by the proposer and submitted to the agency as one complete package. The agency shall award the design-build contract to the proposer that submits a responsive proposal with the lowest cost, if the proposal meets all request-for-proposals requirements.

§ 2606. BEST-VALUE AWARD

(a) If the basis of the award of responsive proposals is best-value, then each proposal shall be submitted by the proposer to the agency in two separate components: a sealed technical proposal and a sealed price proposal. These two components shall be submitted simultaneously. The agency shall first open, evaluate, and score each responsive technical proposal, based on the quality criteria contained in the request for proposals. The request for proposals may provide that the range between the highest and lowest quality scores of responsive technical proposals must be limited to an amount certain. During this evaluation process, the price proposals shall remain sealed, and all technical proposals shall be confidential.

(b) After completion of the evaluation of the technical proposals, the agency shall open and review each price proposal. The agency shall develop a system for assessing the cost and quality criteria. The agency shall award the contract to the proposer of the project representing the best value to the agency.

Sec. 85. DESIGN-BUILD CONTRACTS; LIMITATIONS ON USE

During fiscal year 2010 the agency of transportation shall limit its exercise of the authority granted by Sec. 78 of this act to not more than four projects.

Sec. 86. PROJECT SIGNAGE

For projects initiated in 2010 using design-build contracts, the agency shall erect signage at the project site for the duration of the project's construction identifying the project and its total cost, provided that the cost of acquiring and installing the signs does not exceed \$2,000.00 per project. The signs shall be designed in accordance with the agency's recommendations regarding size and lettering contained in the agency's 2009 report on the issue.

* * * Joint Transportation Oversight Committee Chairs * * *

Sec. 87. 19 V.S.A. § 12b(a) is amended to read:

(a) There is created a joint transportation oversight committee composed of the chairs of the house and senate committees on appropriations, the house and senate committees on transportation, the house committee on ways and means, and the senate committee on finance. The committee shall be chaired alternately by the chairs of the house and senate committees on transportation, and the two year term shall run concurrently with the biennial session of the legislature. The chair of the senate committee on transportation shall chair the committee during the 2009–2010 legislative session.

* * * State Highway Law; Definitions * * *

Sec. 88. 19 V.S.A. § 1 is amended to read:

§ 1. DEFINITIONS

For the purposes of this title:

- (1) “Agency” means the agency of transportation.
- (2) “Board” means the transportation board.
- (3) “Branch” means a major component of a division of a department or major unit of a department with staff functions.
- (4) “Chair” means the chair of the transportation board, unless otherwise specified.
- (5) “Commissioner” means the commissioner of the department of motor vehicles responsible to the secretary for the administration of the department.
- (6) “Department” means the department of motor vehicles.
- (7) “Develop” means the partition or division of any tract of land of any size by a person through sale, lease, transfer or any other means by which any interest in or to the land or a portion of the land is conveyed to another person which will require the construction of permanent new or enlarged points of access to a state or town highway other than a limited access facility pursuant to subsection (a) of section 1702a of this title; excluding however, tracts of land located entirely within a city or incorporated village.
- (8) “Director” means the head of a division.
- (9) “District” means a geographic subdivision of the state primarily established for maintenance purposes.

(10) “District transportation administrator” means the person in charge of a district.

(11) “Division” means a major unit of the agency engaged in line functions other than the department of motor vehicles.

(12) “Highways” are only such as are laid out in the manner prescribed by statute; or roads which have been constructed for public travel over land which has been conveyed to and accepted by a municipal corporation or to the state by deed or a fee or easement interest; or roads which have been dedicated to the public use and accepted by the city or town in which such roads are located; or such as may be from time to time laid out by the agency or town. The term “highway” includes rights-of-way, bridges, drainage structures, signs, guardrails, areas to accommodate utilities authorized by law to locate within highway limits, areas used to mitigate the environmental impacts of highway construction, vegetation, scenic enhancements, and structures. The term “highway” does not include state forest highways, management roads, easements, or rights-of-way owned by or under the control of the agency of natural resources, the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation.

(13) “Management road” means a road not designated as a “state forest highway” used for the long-term management of lands owned by or under the control of the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation to meet the responsibilities and purposes set forth in chapter 83 of Title 10, part 4 of Title 10, and regulations promulgated under those statutes. The term “management road” includes associated easements and rights-of-way. A “management road” is not a “highway” or a “town highway” as defined in this title, is not a public road, and the public has no common law or statutory right of access or use of such a road. A “management road” may be open for temporary, seasonal uses by the public or may be closed temporarily or seasonally at the discretion of the agency of natural resources, the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation. A “management road” may be closed permanently upon 30 days’ notice to the governing body of the municipality in which the road is located and any affected user groups. Designation of a road as a “management road” shall not diminish any deeded rights of way or easements of private landowners on lands owned or controlled by the agency of natural resources, the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation.

~~(13)~~(14) “Person” includes a municipality or state agency.

~~(14)~~(15) "Scenic road" means any road designated pursuant to this title.

~~(15)~~(16) "Secretary" means the head of the agency who shall be a member of the governor's cabinet responsible directly to the governor for the administration of the agency.

~~(16)~~(17) "Section" means a major component of a division or department or major unit of the agency.

~~(17)~~(18) "Selectboard" includes village trustees and city councils.

(19) "State forest highway" means a road used for the long-term management of lands owned by or under the control of the department of forests, parks and recreation to meet the responsibilities and purposes set forth in 10 V.S.A. § 2601, et seq. and regulations promulgated under that statute. The term "state forest highway" includes easements and rights-of-way. A "state forest highway" is not a "highway" or a "town highway" as defined in this title, is not a public road, and the public has no common law or statutory right of access or use of such road. A "state forest highway" may be open for temporary, seasonal uses by the public or may be closed temporarily or seasonally for any reason at the discretion of the agency of natural resources or the department of forests, parks and recreation. A "state forest highway" may be closed permanently upon 30 days' notice to the governing body of the municipality in which the road is located and to any affected user groups. Designation of a road as a "state forest highway" shall not diminish any deeded rights of way or easements of private landowners on lands owned or controlled by the agency of natural resources or the department of forests, parks and recreation.

~~(18)~~(20) "State highways" are those highways maintained exclusively by the agency of transportation.

~~(19)~~(21) "Throughway" means a highway specially designated giving traffic traveling on the throughway the right-of-way at all intersections.

~~(20)~~(22) "Town" includes incorporated villages and cities.

~~(21)~~(23) "Town highways" are ~~those~~ class 1, 2, 3 and 4 highways:

(A) that the towns have authority to exclusively or cooperatively maintain; or

(B) that are maintained by the towns except for scheduled surface maintenance performed by the agency pursuant to section 306a of this title.

~~(22)~~(24) "Traffic committee" consists of the secretary of transportation or his or her designee, the commissioner of motor vehicles or his or her designee, and the commissioner of public safety or his or her designee and is

responsible for establishing speed zones, parking and no parking areas, regulations for use of limited access highways, and other traffic control procedures.

~~(23)~~(25) "Limited access highway" means a highway where the right of owners or occupants of abutting land or other persons to access, light, air, or view in connection with the highway is fully or partially controlled by public authority, in accordance with chapter 17 of this title. The term "highway" does not include state forest highways, management roads, easements, or rights-of-way owned by or under the control of the agency of natural resources, the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation.

Sec. 89. 19 V.S.A. § 301 is amended to read:

§ 301. DEFINITIONS

* * *

(7) "Town highways" are ~~those~~ class 1, 2, 3 and 4 highways:

(A) that the towns have authority to exclusively or cooperatively maintain; or

(B) that are maintained by the towns except for scheduled surface maintenance performed by the agency pursuant to section 306a of this title.

* * * Budget Surplus; Towns of Glastenbury and Somerset * * *

Sec. 90. FISCAL YEAR 2009 FUND TRANSFERS

Notwithstanding the provisions of 24 V.S.A. § 1406, in fiscal year 2009, the following amounts shall be transferred to the transportation fund from the funds indicated:

(1) 21345 Unorganized town—Bennington (Glastenbury) \$241,652.

(2) 21355 Unorganized towns—Windham (Somerset) \$121,180.

Sec. 91. 32 V.S.A. § 4961 is amended to read:

§ 4961. ASSESSMENT OF TAX

(a) A state tax determined pursuant to this section is hereby annually assessed upon the grand list of the Gore in Chittenden County. ~~A state tax of \$0.50 is hereby annually assessed on~~ and upon the grand list of the town of Glastenbury in the county of Bennington and of the unorganized town of Somerset in the county of Windham.

(b) Annually, on or before August 1, the supervisor of Buel's Gore shall call a meeting of the residents of the Gore for the purpose of presenting the

proposed budget and tax rate for the Gore for the ensuing year and inviting discussion thereon. Notice of the meeting shall be sent by first class mail to all residents of the Gore at least 14 days before the meeting. The meeting shall be held at a place within the Gore or within a town that adjoins the Gore. Included with the notice shall be an itemized proposed budget which shall, in the judgment of the supervisor, cover the education, road maintenance and general government costs within the Gore. Also included with the notice shall be proposed tax rates consistent with the budget. Annually, on or before September 10, the supervisor shall adopt a budget and tax rate and notify the residents and appraisers for the Gore.

(c) Annually, on or before August 1, the supervisors of Glastenbury and Somerset shall each present the proposed budget and tax rate for the town for the ensuing year. Upon a finding by the commissioner of taxes before September 10 that the budget and tax rate are reasonable and show no obvious irregularities, the commissioner shall approve the budget and tax rate, and the supervisor shall then adopt the budget and tax rate and notify the residents of the town. If the commissioner does not approve the budget and tax rate by September 10, the budget and tax rate shall remain the same as the budget and tax rate for the prior year, and the supervisor shall so notify the residents of the town.

Sec. 92. 24 V.S.A. § 1406 is amended to read:

§ 1406. TAXES EXPENDED; HOW

Upon allowance of the accounts of supervisors and appraisers for unorganized towns and gores, the commissioner of finance and management shall certify forthwith the amount as allowed to the state treasurer and the balance, if any, of the moneys received from any supervisor, after deducting the amount of the county tax and regional planning costs, if any. The amount of such supervisors' and appraisers' accounts, so certified, shall be used for the laying out, construction and maintenance of highways and bridges in the unorganized towns and gores for which the supervisor is appointed, to be expended by and under the direction of the secretary of transportation, in the same manner as state transportation appropriations. The portion of the money which remains unexpended for more than one year may be ~~used~~ carried forward in the supervisors' accounts for like purposes ~~and expended in a like manner in towns adjoining unorganized towns and gores.~~

* * * Sidewalks; Landowner Liability * * *

Sec. 93. Chapter 23 of Title 19 is redesignated to read:

CHAPTER 23. BICYCLE ROUTES AND SIDEWALKS

Sec. 94. 19 V.S.A. § 2301 is amended to read:

§ 2301. DEFINITIONS

* * *

(6) “Sidewalk” means the portion of a street or highway right-of-way designated for primary or exclusive pedestrian use.

Sec. 95. 19 V.S.A. § 2309 is amended to read:

§ 2309. LIABILITY OF LANDOWNER

No landowner shall be liable for any property damage or personal injury sustained by any person who is using, for any purpose permitted by state law or by a municipal ordinance, bicycle routes or sidewalks constructed on the landowner’s property pursuant to this chapter, unless the landowner charges a fee for the use of the property. Landowner immunity from liability with regard to sidewalks under this section shall not extend to damage or injury to the extent that it arises from negligent, reckless, or willful acts of the landowner.

* * * Year of Manufacture Plates * * *

Sec. 96. 23 V.S.A. § 373 is amended to read:

§ 373. EXHIBITION VEHICLES; YEAR OF MANUFACTURE PLATES

(a) The annual fee for the registration of a motor vehicle which is maintained solely for use in exhibitions, club activities, parades, and other functions of public interest and which is not used for the transportation of passengers or property on any highway, except to attend such functions, shall be \$15.00, in lieu of fees otherwise provided by law.

(b) Pursuant to the provisions of section 304 of this title, one registration plate shall be issued to those vehicles registered under subsection (a) of this section.

(c) The Vermont registration plates of any motor vehicle issued prior to 1939 may be displayed instead of the plates issued under this section, if the current plates are maintained within the vehicle and produced upon request of any enforcement officer as defined in subdivision 4(11) of this title.

* * * Aviation Maintenance Equipment * * *

Sec. 97. REPORT; AVIATION MAINTENANCE EQUIPMENT

The agency of transportation shall, by January 15, 2010, submit to the house and senate transportation committees a report regarding the agency’s current inventory of aviation maintenance equipment. The report shall set forth equipment type, cost, funding source, and useful life. The report also shall contain a five-year plan for future equipment purchases.

* * * Transportation Buildings * * *

Sec. 98. TRANSPORTATION BUILDINGS

The following modifications are made to the transportation buildings program:

(1) Consistent with the recommendations of the January 15, 2009 legislative report (Sec. 8(2) of No. 164 of the Acts of the 2007 Adj. Sess. (2008)) titled "VTrans' Plans for Maintenance Facilities in Chittenden and Addison Counties," the agency of transportation shall proceed with Option A (Stay at "Fort") for the Colchester "Fort" Facility project and shall proceed with Option B (Truck Inspection/Motorcycle Training Facility only) for the North Ferrisburgh Facility project.

(2) As part of the Colchester "Fort" Facility renovation project, the agency shall sell the 25 +/- acre property located off VT Route 117 with the proceeds credited as provided in 19 V.S.A. § 26.

* * * Burlington Airport Pilot Project; Creative Financing * * *

Sec. 99. PILOT PROJECT FOR BURLINGTON INTERNATIONAL
AIRPORT; CREATIVE FINANCING

A pilot project to examine the potential for a public-private initiatives program shall be pursued for the advancing of an interchange on Interstate 89 along Vermont Route 116 in South Burlington to explore improving future access to the Burlington International Airport and to relieve the overburdened interchanges at Interstate 89 exits 12 and 14. Implementation of the pilot study shall be carried out in cooperation, consultation, and with the support of the Vermont agency of transportation, the Chittenden County metropolitan planning organization (CCMPO), and other affected local jurisdictions and project partners. The CCMPO, with the cooperation of the agency of transportation, is directed to prepare a creative financing plan for the advancement of a project to construct an interchange at the above-mentioned location and deliver the plan to the legislature by November 1, 2009.

* * * State Speed Zones * * *

Sec. 100. 23 V.S.A. § 1003 is amended to read:

§ 1003. STATE SPEED ZONES

(a) When the traffic committee constituted under 19 V.S.A. § 1(22) determines, on the basis of an engineering and traffic investigation, that a maximum speed limit established by this chapter is greater or less than is reasonable or safe under conditions found to exist at any place or upon any part of a state highway, except the national system of interstate and defense highways, it may determine and declare a reasonable and safe limit which is

effective when appropriate signs stating the limit are erected. This limit may be declared to be effective at all times or at times indicated upon the signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, or based on other factors, bearing on safe speeds which are effective when posted upon appropriate fixed or alterable signs.

(b) When establishing a maximum speed limit on a state highway contiguous to a school, the traffic committee shall consider, along with the engineering and traffic investigation, data collected for the purpose of promulgating a school travel plan under the Vermont Safe Routes to School program.

* * * Special DMV Examinations * * *

Sec. 101. 23 V.S.A. § 636(a) is amended to read:

(a) Whenever the commissioner has good cause to believe that any holder of an operator's license, or any applicant for renewal of an operator's license, is incompetent or otherwise not qualified to be licensed, he may require such person to submit to a special examination to determine his capabilities or mental or physical fitness, but no person shall be required to pay to the state a fee for such special examination. Such examination shall be given at such time and place as the commissioner may determine. If the commissioner determines that a special examination is warranted, then a driving examination shall be administered. If, under the commissioner's discretion, extenuating circumstances exist, the commissioner may also administer a written or oral examination.

* * * Truck Permits * * *

Sec. 102. 23 V.S.A. § 1432 is amended to read:

§ 1432. LENGTH OF VEHICLES; AUTHORIZED HIGHWAYS

(a) Operation of vehicles with or without a trailer or semitrailer. No motor vehicle without a trailer or semitrailer attached, which is longer than 46 feet overall, shall be operated upon any highway except under special permission from the commissioner of motor vehicles. A motor vehicle with a trailer or semitrailer shall be operated, with regard to the length of the vehicle, pursuant to this section. If there is a trailer or semitrailer, the distance between the kingpin of the semitrailer to the center of the rearmost axle group shall not exceed ~~43~~ 41 feet. An "axle group" is defined as two or more axles where the centers of all the axles are spaced at an equal distance apart.

~~(1) Vehicles with a trailer or semitrailer not exceeding 72 feet on the truck network. If the overall length of a vehicle with a trailer or semitrailer~~

~~does not exceed 72 feet, it may be operated without a permit on the truck network established in subsection (c) of this section.~~

~~(2)~~ Vehicles with a trailer or semitrailer not exceeding ~~68~~ 75 feet ~~off the truck network~~. If the overall length of a vehicle with a trailer or semitrailer does not exceed ~~68~~ 75 feet, it may be operated without a permit ~~off the truck network~~.

~~(3)~~(2) ~~Vehicles with a trailer or semitrailer longer than 68 feet but not longer than 72 feet off the truck network; tractor 23 feet or less. If the overall length of a vehicle with a trailer or semitrailer is longer than 68 feet but not longer than 72 feet, and if the distance between the steering axle to the rearmost tractor axle is 23 feet or less, a permit may be issued pursuant to subdivision 1402(b)(1) of this title.~~ A receiver or shipper of goods located in Vermont may request from the agency of transportation, access to a state highway, ~~not on the truck network~~, for a commercial motor vehicle where the overall length exceeds ~~68 feet but is not longer than 72~~ 75 feet. If the total vehicle length is in excess of 75 feet or the distance from the steering axle to the rearmost tractor axle is longer than 25 feet, a permit may be requested from the commissioner. In that event, the agency of transportation shall review the route or routes requested, making its determination for approval based on safety and engineering considerations, after considering input from local government and regional planning commissions or the metropolitan planning organization. The agency shall maintain consistency in its application of acceptable highway geometry when approving other routes. The agency may authorize safety precautions on these highways, if warranted, which shall include, but not be limited to, precautionary signage, intelligent transportation system signage, special speed limits and use of flashing lights.

~~(4)~~ Vehicles with a trailer or semitrailer longer than 68 feet but not longer than 72 feet off the truck network; tractor greater than 23 feet. ~~If the overall length of a vehicle with a trailer or semitrailer is longer than 68 feet but not longer than 72 feet, and if the distance between the steering axle to the rearmost tractor axle is greater than 23 feet in length, a permit may be issued pursuant to subdivision 1402(b)(2) of this title.~~

~~(5)~~(3) Vehicles with a trailer or semitrailer longer than ~~72~~ 75 feet. If the overall length of a vehicle with a trailer or semitrailer is longer than ~~72~~ 75 feet, a permit may be issued pursuant to subdivision ~~1402(b)(3)~~ 1402(b)(1) of this title.

(b) Rear-end protective devices on trailers. A trailer or semitrailer not in excess of 53 feet may be operated provided the semitrailer is equipped with a rear-end protective device of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral

extremities of the semitrailer and located not more than 22 inches from the surface as measured with the vehicle empty and on a level surface.

~~(c) The truck network. The truck network shall consist of the following: U.S. Route 2 between the New Hampshire state line and the junction of U.S. Route 5; U.S. Route 2 from the junction of exit 21 on I-91 to exit 8 on Interstate 89; U.S. Route 2 between the New York state line and VT Route 78; VT Route 2A; U.S. Route 4 from the New York state line to the junction of VT Route 100 south; VT Route 279 from the New York state line to the junction of U.S. Route 7; U.S. Route 5 from the junction of U.S. Route 2 to the junction of exit 20 of I-91; U.S. Route 5 between I-91 at exit 22 to the south entrance of the St. Johnsbury Lyndonville industrial park; U.S. Route 5 south from I-91 at exit 22 to the intersection of St. Johnsbury Railroad Street and Hastings Hill Street; U.S. Route 7; VT Route 9 from the New York state line to the junction of exit 2 on I-91; VT Route 9 from the junction of exit 3 on I-91 to the New Hampshire state line; VT Route 18 from U.S. Route 2 to the New Hampshire state line; VT Route 22A between U.S. Route 4 and U.S. Route 7; VT Route 78; VT Route 103; VT Route 105 from the junction of U.S. Route 7 to the junction of VT Route 100, then southerly on VT Route 100 to the junction of VT Route 100 and VT Route 14, then easterly on VT Route 14 to the junction of VT Route 14 and U.S. Route 5, then northerly on U.S. Route 5 to the junction of U.S. Route 5 and VT Route 105, then easterly on VT Route 105 from the junction of U.S. Route 5 to the New Hampshire border; VT Route 104 from VT Route 105 to I-89 at exit 19; VT Route 253 from the New Hampshire border to the Canadian border; VT Route 289; and U.S. Route 302. The commissioner is authorized to place special restrictions applying to motor vehicles on any route of the truck network when, in his or her opinion, the restrictions would provide for the safe operation of all vehicles on the route.~~

~~(d)~~ Operation on U.S. Route 4. Vehicles Notwithstanding any other law to the contrary, vehicles with a trailer or semitrailer which are longer than 68 feet but not longer than 72 feet may be operated with a single or multiple trip overlength permit issued at no cost by the department of motor vehicles or, for a fee, by an entity authorized in subsection 1400(d) of this title on U.S. Route 4 from the New Hampshire state line to the junction of VT Route 100 south, provided the distance from the kingpin of the semitrailer to the center of the rearmost axle group is not greater than ~~43~~ 41 feet.

~~(e)~~(d) Operation of pole semitrailers. The provisions of this section shall not be construed to prevent the operation of so-called pole dinkeys or pole semitrailers when being used to support the ends of poles, timbers, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections, the overall length of which may exceed ~~60~~ 75 feet under special permission from the commissioner of motor vehicles.

~~(f)~~(e) Operation on Interstate highways. Notwithstanding subsection (a) of this section, on the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary, United States Department of Transportation, and on highways leading to or from the Dwight D. Eisenhower National System of Interstate and Defense Highways for a distance of one mile, unless the agency of transportation finds the use of a specific highway to be unsafe, no overall length limits for tractor-semitrailer or tractor semitrailer-trailer combination shall apply. On these highways, no semitrailer in a tractor-semitrailer combination longer than 53 feet and no trailer or semitrailer in a tractor-semitrailer-trailer combination longer than 28 feet shall be operated. However, the limits established by this section shall not be construed in such a manner as to prohibit the use of semitrailers in a tractor-semitrailer combination of such dimensions as were in actual and lawful use in this state on December 1, 1982.

~~(g)~~(f) List of approved highways. The commissioner shall prepare a list of each highway that has been approved for travel by vehicles referred to in subsection (a) of this section. The list shall be furnished, without charge, to each permitting service, electronic dispatching service, or other similar service authorized to do business in this state and, upon request, to any interested person.

* * * Transportation Enhancement Grants * * *

Sec. 103. ENHANCEMENT GRANTS; FISCAL YEAR 2010

(a) Notwithstanding 19 V.S.A. § 38, the transportation enhancement grant committee shall award grants up to fiscal year 2010 in the amount of federal funds made available to the state under the American Recovery and Reinvestment Act of 2009 (ARRA) which are exclusively reserved for enhancement projects as defined in 23 U.S.C. § 101(a)(35), estimated to be \$3,773,739. The transportation enhancement grant committee shall award grants authorized in this section in a separate grant round before June 30, 2009. The agency shall notify potential applicants of the separate grant round and fix a deadline for the filing of applications of May 15, 2009. All enhancement grant awards authorized in this section shall require a local match in accordance with the same rules that apply to annual enhancement grants.

(b) Any amounts authorized in subsection (a) of this section that are not awarded by the committee by June 30, 2009, up to \$3,773,739 shall be included in the fiscal year 2010 enhancement grant program.

(c) To the extent that any grants awarded using ARRA enhancement funds cannot be fully obligated by November 30, 2009, and to the extent necessary to satisfy any deadlines for obligation of ARRA enhancement funds, the secretary

of transportation is authorized to obligate ARRA federal funds made available to the state which are exclusively reserved for enhancement projects as defined in 23 U.S.C. § 101(a)(35) to eligible projects in the approved fiscal year 2010 transportation program. The following projects are added to program development – bike and pedestrian facilities – candidates list:

Statewide - STP RAMP (1) – Reconstruction of curb ramps on state highway system to comply with ADA requirements.

Statewide - STP NWRT (1) – Rehabilitate aggregate surfaces on rail trails.

Sec. 104. ENHANCEMENT GRANTS FISCAL YEAR 2010

Notwithstanding 19 V.S.A. § 38, the fiscal year 2010 enhancement grant program shall include a second grant round with respect to non-ARRA funds. For purposes of determining the amount of the grant program, the percentage applicable in 19 V.S.A. § 38(c)(1) shall be 5.0 percent. The provisions of 19 V.S.A. § 38 shall otherwise apply to such grants.

* * * Rest Area Commercialization * * *

Sec. 105. REST AREA COMMERCIALIZATION

By July 1, 2009, the secretary of the agency of transportation shall:

(1) request from the Federal Highway Administration a waiver from the provisions of Title 23, section 111 of the United States Code prohibiting commercial establishments from operating at rest areas along the interstate highway system; and

(2) seek the assistance of the state's federal congressional delegation for the purpose of securing the waiver.

* * * Rest Area Revitalization * * *

Sec. 106. LEGISLATIVE INTENT

It is the intent of the general assembly to require agencies to provide justification for reducing services to the public by:

(1) analyzing current service delivery methods;

(2) reexamining the assumptions that underlie the choice of the current delivery method;

(3) right-sizing when necessary; and

(4) exploring alternate delivery methods that could provide similar services at a lower cost to taxpayers.

Sec. 107. PERMANENT CLOSING OF REST AREA FACILITIES

(a) The commissioner of buildings and general services (BGS) is instructed to permanently close rest area facilities at Highgate on Interstate 89, at Sharon South on Interstate 89, at Hartford North on Interstate 91, and at Randolph North on Interstate 89. These four facilities and all operating and maintenance costs associated with them, including the costs of operating WiFi, are hereby transferred to the Vermont agency of transportation (VTrans) effective July 1, 2009.

(b) VTrans is hereby instructed to explore ways these buildings might be used for state purposes other than operating a rest area or those purposes that would meet with FHWA approval or, absent a public need, may have the structures removed. In the event VTrans decides to have the structures removed, it will notify the members of the Rest Area Advisory Committee established in 19 V.S.A. § 12c with 30 days' advance notice prior to removal.

(c) VTrans, at its discretion, may decide to close the sites to traffic or to have them remain open to either truck or pleasure car traffic or both. Responsibilities for maintaining the grounds will become the responsibility of VTrans. Erection of barriers to traffic or fencing as necessary to limit the public use of these facilities shall be the responsibility of VTrans.

Sec. 108. HOURS OF OPERATION

The commissioner of buildings and general services (BGS) is hereby authorized to adjust the hours of operation for all remaining rest areas. The commissioner shall make decisions on hours of operation based on budgetary considerations, numbers of visitors, and seasonal fluctuations.

Sec. 109. PILOT PROJECT FOR OPERATION OF INFORMATION

CENTERS

(a) Pursuant to Sec. 19e(c) of No. 38 of the Acts of 1997, the commissioner of buildings and general services (BGS) is authorized to commence a three-year pilot project to operate facilities at Alburgh, Georgia North, and Georgia South.

(b) Pursuant to Sec. 39(3) of No. 18 of the Acts of 1999, the commissioner is authorized to explore the possibility of creating privately operated travel information centers at exits along the interstate and along the state highway system. The secretary of transportation is instructed to support this initiative by working with BGS and the FHWA to explore a signage strategy that clearly directs travelers to these service opportunities.

Sec. 110. FUTURE CONSTRUCTION

The commissioner of buildings and general services (BGS) is instructed to take steps to plan for and build the Bennington welcome center at an amount

not to exceed the federal earmarks and state matching funds identified for this project. It is the expectation of the house and senate committees on transportation that the site will be operated by the Bennington area chamber of commerce under Sec. 19e(c) of No 38 of the Acts of 1997 and under an agreement approved by the Federal Highway Administration. Therefore, the commissioner of BGS and the chamber shall report back to the rest area advisory committee on or before January 15, 2010, as to the plan for operation and the proposed cost.

* * * Authority to Sell Salt Shed Property in Montpelier * * *

Sec. 111. AUTHORIZATION TO CONVEY "SALT SHED" PROPERTY IN MONTPELIER

(a) Upon receiving satisfactory evidence of release of any interest of the Washington County Railroad Company, the secretary of transportation, as agent for the state of Vermont, is authorized to convey to Connor Brothers Stonecutters, LLC (Connor) for fair market value a parcel of land in the city of Montpelier between Stone Cutters Way and the Winooski River. Conveyance of this parcel of land, sometimes known as 575 Stone Cutters Way or the "salt shed property," shall include the state's interest in a December 16, 1999 lease, as amended, between the state of Vermont, agency of transportation, joined by Washington County Railroad Company, and the Pyralisk Arts Center, Inc. The secretary, in his or her discretion, may adjust the boundaries of the land to be conveyed to Connor to accommodate the building plans of Connor. Connor shall be responsible for obtaining any necessary survey and subdivision approvals. In determining fair market value for this transfer, the secretary shall consider the undertaking of Connor, either through itself or through others, to provide remediation of hazardous wastes and materials on the subject property pursuant to the so-called "Corrective Action Plan (Salt Shed)" dated April 13, 2005, prepared by The Johnson Company, Inc. for Central Vermont Regional Planning Commission, as amended with Connor's consent from time to time.

(b) The authority granted by this section shall expire on June 30, 2011.

* * * Validating Sticker on Registration Plate * * *

Sec. 112. 23 V.S.A. § 305 is amended to read:

§ 305. – WHEN ISSUED

* * *

(c) The commissioner may issue number plates to be used for a period of two or more years. ~~Validating stickers~~ One validating sticker shall be issued by the department of motor vehicles upon payment of the registration fee for the second and each succeeding year the plate is used. No plate is valid for the

second and succeeding years unless the ~~stickers are~~ sticker is affixed to the rear plate in the manner prescribed by the commissioner.

* * * Passenger Rail Service * * *

Sec. 113. 2006 STATE RAIL & POLICY PLAN

Consistent with the 2006 State Rail & Policy Plan, the agency shall estimate the total cost of (1) upgrading the western corridor rail line for passenger rail service to and from Burlington, Rutland, Bennington and Albany, New York, (2) operating a passenger rail service from Burlington to Rutland connecting to White Hall, New York and (3) operating a passenger rail service from Burlington to Rutland to Bennington connecting to Albany, New York. The agency shall present its analysis to the House and Senate committees on transportation by January 15, 2010

* * * Central Garage * * *

Sec. 114. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), the amount of \$1,120,000 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

* * * Effective Dates * * *

Sec. 115. EFFECTIVE DATES

(a) The following sections of this act shall take effect from passage:

(1) Secs. 3, 21 (ARRA funds).

(2) Sec. 111 (sale of salt shed in Montpelier).

(3) Secs. 103, 104 (enhancement grants).

(4) Secs. 66, 67 (sale of surplus rail property).

(5) Sec. 101 (commissioner of DMV administering special exam).

(b) Secs. 24-28, 30-32 (motor fuels transportation infrastructure assessments and bond fund) shall take effect on June 1, 2009.

(c) Secs. 22 and 23 (motor fuels infrastructure assessments) shall take effect on October 1, 2009.

(d) Sec. 77 (exemption of motor buses from diesel tax) shall take effect on July 1, 2010.

(d) All other sections of this act not specifically enumerated in subsections (a), (b), and (c) of this section shall take effect on July 1, 2009.

Committee on the part of the Senate Committee on the part of the House

Sen. Richard Mazza
Sen. Philip Scott
Sen. Jane Kitchel

Rep. Richard Westman
Rep. David Potter
Rep. Patrick Brennan

Pending the question, Shall the House adopt the Committee of Conference report?

Recess

At four o'clock and thirty minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At five o'clock in the afternoon, the Speaker called the House to order.

Consideration Resumed; Committee of Conference Adopted; Rules Suspended; Action Ordered Messaged to Senate Forthwith and Bill Delivered to the Governor Forthwith

H. 438

Consideration resumed on House bill, entitled

An act relating to the state's transportation program;

Thereupon, the report of the committee of conference was adopted.

On motion of **Rep. McDonald of Berlin**, the rules were suspended and action on the bill was ordered messaged to the Senate forthwith and the bill delivered to the Governor forthwith.

Rules Suspended; Senate Proposal of Amendment Concurred in; Rules Suspended; Action Ordered Messaged to Senate Forthwith and Bill Delivered to the Governor Forthwith

H. 125

On motion of **Rep. McDonald of Berlin**, the rules were suspended and House bill, entitled

An act relating to the sale of unpasteurized (raw) milk

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Senate proposed to the House to amend the bill as follows:

First: In Sec. 2, 6 V.S.A. § 2777(d), by striking out subdivision (1) (registration) and renumbering the remaining subdivisions accordingly

Second: In Sec. 2, 6 V.S.A. § 2777(d), by striking out existing subdivision (2)(D) (annual reporting of total gallons sold)

Third: In Sec. 2, 6 V.S.A. § 2777(f), by adding new subdivisions (4) and (5) to read as follows:

(4) Registration. Each producer operating under this subsection shall register with the agency.

(5) Reporting. On or before March 1 of each year, each producer shall submit to the agency a statement of the total gallons of unpasteurized milk sold in the previous 12 months.”

and by renumbering the current subdivision (4) to be subdivision (6)

Fourth: In Sec. 2, 6 V.S.A. § 2777(f), existing subdivision (3), by striking out subdivisions (B) and (C) and inserting in lieu thereof new subdivisions (B) and (C) to read as follows:

(B) The producer shall assure that all test results are forwarded to the agency, by the laboratory, upon completion of testing or within five days of receipt of the results by the producer.

(C) The producer shall keep test results on file for one year and shall post results on the farm in a prominent place that is easily visible to customers. The producer shall provide test results to the farm’s customers if requested.

Pending the question, Shall the House concur with the Senate proposal of amendment? **Rep. Johnson of Canaan** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House concur with the Senate proposal of amendment? was decided in the affirmative. Yeas, 102. Nays, 38.

Those who voted in the affirmative are:

Acinapura of Brandon	Deen of Westminster	Hooper of Montpelier
Adams of Hartland	Devereux of Mount Holly	Howard of Rutland City
Ancel of Calais	Donahue of Northfield	Howrigan of Fairfield
Andrews of Rutland City *	Donovan of Burlington	Hube of Londonderry
Aswad of Burlington	Edwards of Brattleboro	Jerman of Essex
Atkins of Winooski	Emmons of Springfield	Johnson of South Hero
Audette of South Burlington	Evans of Essex	Klein of East Montpelier
Bohi of Hartford	Fagan of Rutland City	Koch of Barre Town
Botzow of Pownal	Fisher of Lincoln	Komline of Dorset
Bray of New Haven	French of Shrewsbury	Lanpher of Vergennes
Browning of Arlington	French of Randolph	Lawrence of Lyndon
Burke of Brattleboro	Geier of South Burlington	Lenes of Shelburne
Cheney of Norwich	Grad of Moretown	Leriche of Hardwick
Clarkson of Woodstock	Greshin of Warren	Lewis of Derby *
Conquest of Newbury	Haas of Rochester	Lippert of Hinesburg
Courcelle of Rutland City	Head of South Burlington	Lorber of Burlington
Crawford of Burke	Heath of Westford	Macaig of Williston
Davis of Washington	Higley of Lowell	Manwaring of Wilmington

Marek of Newfane	O'Donnell of Vernon	Spengler of Colchester
Martin of Springfield	Orr of Charlotte	Stevens of Waterbury
Martin of Wolcott	Partridge of Windham	Stevens of Shoreham
Masland of Thetford	Pellett of Chester	Sweaney of Windsor
McCullough of Williston	Peltz of Woodbury	Taylor of Barre City
McFaun of Barre Town	Poirier of Barre City	Toll of Danville
Milkey of Brattleboro	Potter of Clarendon	Townsend of Randolph
Minter of Waterbury	Pugh of South Burlington	Waite-Simpson of Essex
Mitchell of Barnard	Ram of Burlington	Webb of Shelburne
Moran of Wardsboro	Reis of St. Johnsbury	Weston of Burlington
Morley of Barton	Rodgers of Glover	Wheeler of Derby
Mrowicki of Putney	Scheuermann of Stowe	Wilson of Manchester
Nease of Johnson	Shand of Weathersfield	Wizowaty of Burlington
Nuovo of Middlebury	Sharpe of Bristol	Wright of Burlington
O'Brien of Richmond	Smith of Mendon	Zenie of Colchester
Obuchowski of Rockingham	South of St. Johnsbury	Zuckerman of Burlington

Those who voted in the negative are:

Ainsworth of Royalton	Donaghy of Poultney	McDonald of Berlin
Baker of West Rutland	Flory of Pittsford	McNeil of Rutland Town
Bissonnette of Winooski	Frank of Underhill	Miller of Shaftsbury
Branagan of Georgia	Gilbert of Fairfax	Mook of Bennington
Brennan of Colchester	Helm of Castleton	Morrissey of Bennington
Canfield of Fair Haven	Hubert of Milton	Myers of Essex
Clark of Vergennes	Johnson of Canaan	Pearce of Richford
Clerkin of Hartford	Keenan of St. Albans City	Peaslee of Guildhall
Condon of Colchester	Krawczyk of Bennington	Perley of Enosburg
Consejo of Sheldon	Larocque of Barnet	Savage of Swanton
Corcoran of Bennington	Malcolm of Pawlet	Turner of Milton
Dickinson of St. Albans Town	Marcotte of Coventry *	Winters of Williamstown
	McAllister of Highgate	Young of St. Albans City

Those members absent with leave of the House and not voting are:

Copeland-Hanzas of Bradford	Larson of Burlington	Trombley of Grand Isle
Kilmartin of Newport City	Maier of Middlebury	Westman of Cambridge
Kitzmiller of Montpelier	Smith of Morristown	
	Till of Jericho	

Rep. Andrews of Rutland City explained her vote as follows:

“Mr. Speaker:

I vote yes only because this bill provides significant safety improvements over current law. I am concerned that tier one sellers will not be required to register, and I continue to have grave concerns about the health risks posed by the sale of raw milk to the public.”

Rep. Lewis of Derby explained his vote as follows:

“Mr. Speaker:

I vote yes even though I have issues with this bill, but it is better than the present law.”

Rep. Marcotte of Coventry explained his vote as follows:

“Mr. Speaker:

I believe that adults should make their choice on what to eat and drink, but I vote no because our children must eat and drink what is put in front of them. They do not have the choice.”

On motion of **Rep. McDonald of Berlin**, the rules were suspended and action on the bill was ordered messaged to the Senate forthwith and the bill delivered to the Governor forthwith.

Recess

At six o'clock and thirty minutes in the evening, the Speaker declared a recess until the fall of the gavel.

At eight o'clock and twenty minutes in the evening, the Speaker called the House to order.

Message from the Senate No. 63

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 145. An act relating to composting.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 48. An act relating to marketing of prescription drugs.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

Message from the Senate No. 64

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 27. Senate concurrent resolution honoring Lawrence Handy of St. Albans for his civic and entrepreneurial leadership.

S.C.R. 28. Senate concurrent resolution congratulating the Thunder Road International Speedbowl on its 50th anniversary season.

S.C.R. 29. Senate concurrent resolution congratulating A. Richard Boera on being named Northeast Kingdom Chamber of Commerce's 2009 Citizen of the Year.

S.C.R. 30. Senate concurrent resolution congratulating the Caledonia Essex Ambulance Service on its 25th anniversary.

S.C.R. 31. Senate concurrent resolution congratulating O.U.R. House of Central Vermont, Inc. on its 20th anniversary.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 155. House concurrent resolution in memory of former Representative Joseph T. Steventon of Rochester.

H.C.R. 156. House concurrent resolution welcoming to the state house the participants in the Vermont National Guard state partnership with Macedonia and Senegal.

H.C.R. 157. House concurrent resolution in memory of Joseph J. Flory.

H.C.R. 158. House concurrent resolution congratulating Vincent's Drug & Variety Store on its receipt of the 2009 Jeffrey Butland Family-Owned Business of the Year Award.

H.C.R. 159. House concurrent resolution honoring the history of baseball and softball at the University of Vermont.

H.C.R. 160. House concurrent resolution in memory of Allen S. Myers.

H.C.R. 161. House concurrent resolution honoring the Vermont Sledcats sled hockey team.

H.C.R. 162. House concurrent resolution in memory of Gloria Miller of Corinth.

H.C.R. 163. House concurrent resolution in memory of former Corinth

moderator John A. Pierson Jr.

H.C.R. 164. House concurrent resolution commemorating the opening of the newly rebuilt Harris Hill Ski Jump in Brattleboro.

H.C.R. 165. House concurrent resolution congratulating the Wardsboro 4th of July parade and street fair on its 60th anniversary.

H.C.R. 166. House concurrent resolution congratulating the 2009 Essex High School Fed Challenge team on its outstanding performance.

H.C.R. 167. House concurrent resolution in memory of former Vermont National Guard Assistant Adjutant General Alan Howard Noyes.

H.C.R. 168. House concurrent resolution congratulating Chroma Technology Corporation of Bellows Falls on being named one of the world's most democratic companies.

H.C.R. 169. House concurrent resolution congratulating the new International House of Pancakes Restaurant in South Burlington for serving pure Vermont maple syrup.

H.C.R. 170. House concurrent resolution congratulating The Grafton FAST Squad on being named the 2009 First Responder Service of the Year.

H.C.R. 171. House concurrent resolution congratulating Seldon Technologies, Inc. on its third place ranking in the Artemis Project's top 50 water companies survey.

H.C.R. 172. House concurrent resolution congratulating John Charles Dugan on being named the Vergennes Boys & Girls Club's 2009 Youth of the Year.

H.C.R. 173. House concurrent resolution honoring the golden anniversary of Ted's Pizza Shop in Rutland City.

H.C.R. 174. House concurrent resolution congratulating and extending best wishes to the Woodstock Union Middle School Science Bowl team.

H.C.R. 175. House concurrent resolution congratulating Castleton State College President David Wolk on his receipt on the New England Board of Higher Education's Eleanor M. McMahon Award for Lifetime Achievement.

H.C.R. 176. House concurrent resolution congratulating the Vermont Veterans' Home as it commemorates its 125th anniversary.

H.C.R. 177. House concurrent resolution congratulating Bennington Project Independence on its 30th anniversary and the opening of its new Dr. Richard A. Sleeman Center.

H.C.R. 178. House concurrent resolution congratulating Vermont State Representative Margaret Cheney and U.S. Representative Peter Welch on their recent marriage.

H.C.R. 179. House concurrent resolution honoring the American Cancer Society's 2009 Relay for Life events in Vermont.

H.C.R. 180. House concurrent resolution honoring Gary Anderson for his exemplary record of public and community service in Hyde Park.

Consideration Resumed; Senate Proposal of Amendment Concurred in

H. 192

Consideration resumed on House bill, entitled

An act relating to electronic benefit machines for farmers' markets;

Thereupon, the Senate proposal of amendment was concurred in.

Rules Suspended; Action Postponed

H. 145

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. McDonald of Berlin**, the rules were suspended and bill, entitled

An act relating to composting

Was taken up for immediate consideration.

The Senate proposed to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 6602(25) is added to read:

(25) "Compost" means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but shall not mean sewage, septage, or materials derived from sewage or septage.

Sec. 2. 10 V.S.A. § 6605h is added to read:

§ 6605h. COMPOSTING REGISTRATION

Notwithstanding sections 6605, 6605f, and 6611 of this title, the secretary may, by rule, authorize a person engaged in the production or management of compost at a small scale composting facility to register with the secretary instead of obtaining a facility certification under section 6605 or 6605c of this title.

Sec. 3. 10 V.S.A. § 6605j is added to read:

§ 6605j. ACCEPTED COMPOSTING PRACTICES

(a) The secretary, in consultation with the secretary of agriculture, food and markets, shall adopt by rule, pursuant to chapter 25 of Title 3, and shall implement and enforce accepted composting practices for the management of composting in the state. These accepted composting practices shall address:

(1) Standards for the construction, alteration, or operation of a composting facility;

(2) Standards for facility operation, including acceptable quantities of product or inputs, vector management, odors, noise, traffic, litter control, contaminant management, operator training and qualifications, recordkeeping, and reporting;

(3) Standards for siting of composting facilities, including siting and operation of compost storage areas, compost bagging areas, and roads and parking areas;

(4) Standards for the composting process, including rotation, management of compost piles, compost pile size, and monitoring of compost operations;

(5) Standards for management of runoff from compost facilities, including liquids management from the feedstock area, active composting areas, curing area, and compost storage area; the use of swales or stormwater management around or within a compost facility; vegetative buffer requirements; and run-off management from tipping areas;

(6) Specified areas of the state unsuitable for the siting of commercial composting that utilizes post-consumer food residuals or animal mortalities, such as designated downtowns, village centers, village growth areas, or areas of existing residential density; and

(7) Definitions of “small-scale composting facility” and “medium-scale composting facility.”

(b) A person operating a small scale composting facility or operating a composting facility on a farm who follows the accepted composting practices shall not be required to obtain a discharge permit under section 1263 or 1264 of this title, a solid waste facility certification under chapter 159 of this title, or an air emissions permit under chapter 23 of this title unless a permit is required by federal law or the secretary of natural resources determines that a permit is necessary to protect public health or the environment.

(c) The secretary of natural resources shall coordinate with the secretary of agriculture, food and markets in implementing and enforcing the accepted composting practices. The secretary of agriculture, food and markets and the secretary of natural resources may, after opportunity for public review and comment, develop a memorandum of understanding for implementation and enforcement of the accepted composting practices.

Sec. 4. AGENCY OF NATURAL RESOURCES REPORT ON RULES FOR ACCEPTED COMPOSTING PRACTICES

Prior to filing a final proposal of rules under section 841 of Title 3, the agency of natural resources shall, prior to February 15, 2010, submit to the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture the proposed final rules required under 10 V.S.A. § 6605j for accepted composting practices. The house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture shall review the proposed final rules and shall recommend whether the proposed final rules should be amended or whether the proposed final rules should be filed with the secretary of state and the legislative committee on administrative rules under section 841 of Title 3. If the general assembly is not in session when the agency of natural resources is prepared to file a final proposal of rules addressing accepted composting practices, the agency may submit the proposed rules to the secretary of the senate, the clerk of the house, and the chairs of the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture.

Sec. 5. COMPOSTING STUDY COMMITTEE

(a) On or before July 1, 2009, the agency of natural resources shall reconvene the composting study committee established by No. 130 of the Acts of the 2007 Adj. Sess. (2008) to review the application of Act 250, 10 V.S.A. chapter 151, to composting facilities in the state; to recommend whether certain composting facilities or categories of composting facilities should be exempt from Act 250; and to recommend areas of the state in which a composting facility using post-consumer food residuals or animal mortalities should be prohibited from locating regardless of the size of the facility or whether a facility is otherwise exempt from the requirements of 10 V.S.A. § chapter 151. The committee shall issue a final report of its findings to the house committee on fish, wildlife and water resources, the house and senate

committees on natural resources and energy, and the house and senate committees on agriculture by January 15, 2010.

(b) For the purposes of this section, the composting study committee shall consist of the members appointed under the requirement of No. 130 of the Acts of the 2007 Adj. Sess. (2008) and:

(1) a member of the house committee on fish, wildlife and water resources, appointed by the speaker of the house;

(2) a member of the senate committee on natural resources and energy, appointed by the committee on committees; and

(3) a member of an environmental organization, appointed by the speaker of the house.

Pending the question, Shall the House concur in the Senate proposal of amendment?, on motion of **Rep. Webb of Shelburne**, action on the bill was postponed until the end of the Orders of the Day.

Rules Suspended; Senate Proposal of Amendment Concurred in

S. 48

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. McDonald of Berlin**, the rules were suspended and House bill, entitled

An act relating to marketing of prescription drugs

Was taken up for immediate consideration.

The Senate proposed to the House to amend the bill as follows:

First: In Sec. 4, subdivision 4632(a)(1)(A) of Title 18, by striking out the word "and" at the end of subdivision (ii), by striking out the period and inserting in lieu thereof the following ; and at the end of subdivision (iii) and by inserting a new subdivision (iv) to read as follows:

(iv) samples of a prescription drug provided to a health care professional for free distribution to patients.

Second: In Sec. 4, subdivision 4632(a)(1)(B) of Title 18, by striking out the word "and" at the end of subdivision (ii), by striking out the period and inserting in lieu thereof the following ; and at the end of subdivision (iii) and by inserting a new subdivision (iv) to read as follows:

(iv) samples of a prescription drug provided to a health care professional for free distribution to patients.

Third: In Sec. 4, by striking out subdivision 4632(a)(2) in its entirety and renumbering the remaining subdivisions accordingly

Fourth: by inserting a new Sec. 5a. to read as follows:

Sec. 5a. STUDY OF DISCLOSURE OF DRUG SAMPLES

(a) The attorney general's office shall conduct a review, in consultation with the commission on health care reform, of the advisability of modifying section 4632 of Title 18 to require the disclosure of information about the provision of samples to health care providers by manufacturers of prescribed products.

(b) The attorney general's office shall provide a report of its findings to the house committee on health care and the senate committees on finance and on health and welfare no later than December 15, 2009.

Pending the question, Shall the House concur with the Senate proposal of amendment? **Rep. Copeland-Hanzas of Bradford** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House concur with the Senate proposal of amendment? was decided in the affirmative. Yeas, 137. Nays, 4.

Those who voted in the affirmative are:

Acinapura of Brandon	Corcoran of Bennington	Head of South Burlington
Adams of Hartland	Courcelle of Rutland City	Heath of Westford
Ainsworth of Royalton	Crawford of Burke	Helm of Castleton
Ancel of Calais	Davis of Washington	Hooper of Montpelier
Andrews of Rutland City	Deen of Westminster	Howard of Rutland City
Aswad of Burlington	Devereux of Mount Holly	Howrigan of Fairfield
Atkins of Winooski	Dickinson of St. Albans	Hube of Londonderry
Baker of West Rutland	Town	Jerman of Essex
Bissonnette of Winooski	Donaghy of Poultney	Johnson of South Hero
Bohi of Hartford	Donahue of Northfield	Keenan of St. Albans City
Botzow of Pownal	Donovan of Burlington	Kitzmiller of Montpelier
Branagan of Georgia	Edwards of Brattleboro	Klein of East Montpelier
Bray of New Haven	Emmons of Springfield	Koch of Barre Town
Browning of Arlington	Evans of Essex	Komline of Dorset
Burke of Brattleboro	Fisher of Lincoln	Krawczyk of Bennington
Canfield of Fair Haven	Flory of Pittsford	Lanpher of Vergennes
Cheney of Norwich	Frank of Underhill	Larocque of Barnet
Clark of Vergennes *	French of Shrewsbury	Larson of Burlington
Clarkson of Woodstock	French of Randolph	Lawrence of Lyndon
Clerkin of Hartford	Geier of South Burlington	Lenes of Shelburne
Conquest of Newbury	Gilbert of Fairfax	Leriche of Hardwick
Consejo of Sheldon	Grad of Moretown	Lewis of Derby
Copeland-Hanzas of	Greshin of Warren	Lippert of Hinesburg
Bradford *	Haas of Rochester	Lorber of Burlington

Macaig of Williston	Myers of Essex	Smith of Mendon
Maier of Middlebury	Nease of Johnson	South of St. Johnsbury
Malcolm of Pawlet	Nuovo of Middlebury	Spengler of Colchester
Manwaring of Wilmington	O'Brien of Richmond	Stevens of Waterbury
Marcotte of Coventry	Obuchowski of Rockingham	Stevens of Shoreham
Marek of Newfane *	O'Donnell of Vernon	Sweeney of Windsor
Martin of Springfield	Orr of Charlotte	Taylor of Barre City
Martin of Wolcott	Partridge of Windham	Till of Jericho
Masland of Thetford	Pearce of Richford	Toll of Danville
McAllister of Highgate	Peaslee of Guildhall	Townsend of Randolph
McCullough of Williston	Pellett of Chester	Waite-Simpson of Essex
McDonald of Berlin	Peltz of Woodbury	Webb of Shelburne
McFaun of Barre Town	Perley of Enosburg	Westman of Cambridge
McNeil of Rutland Town	Poirier of Barre City	Weston of Burlington
Milkey of Brattleboro	Potter of Clarendon	Wheeler of Derby
Miller of Shaftsbury	Pugh of South Burlington	Wilson of Manchester
Minter of Waterbury	Ram of Burlington	Winters of Williamstown
Mitchell of Barnard	Reis of St. Johnsbury	Wizowaty of Burlington
Mook of Bennington	Rodgers of Glover	Wright of Burlington
Moran of Wardsboro	Savage of Swanton	Zenie of Colchester
Morley of Barton	Scheuermann of Stowe	Zuckerman of Burlington
Morrissey of Bennington	Shand of Weathersfield	
Mrowicki of Putney	Sharpe of Bristol	

Those who voted in the negative are:

Fagan of Rutland City *	Hubert of Milton
Higley of Lowell	Turner of Milton

Those members absent with leave of the House and not voting are:

Audette of South Burlington	Johnson of Canaan	Trombley of Grand Isle
Brennan of Colchester	Kilmartin of Newport City	Young of St. Albans City
Condon of Colchester	Smith of Morristown	

Rep. Clark of Vergennes explained his vote as follows

“Mr. Speaker:

I am pleased that with the exemption of samples from the reporting list, we have protected low and moderate income Vermonters.”

Rep. Copeland-Hanzas of Bradford explained her vote as follows

“Mr. Speaker:

I vote yes today because Vermonters should know the extent of the marketing money big

Pharmacy sends into Vermont. Despite this eleventh hour compromise, this bill still puts Vermont in the forefront of states willing to shine the light on the

unnecessary 34% of revenues manufacturers put toward pushing their expensive drugs onto Vermonters struggling to afford their life-saving drugs”.

Rep. Fagan of Rutland City explained his vote as follows

“Mr. Speaker

This bill, while better than the previous version, still has great possibility to hurt our local business people who appreciate and count upon drug representative business.

Rep. Marek of Newfane explained his vote as follows

“Mr. Speaker:

This compromise bill still represents significant progress toward controlling the adverse

Impact of drug marketing on our state. However, I regret the fact that attaining that compromise required eliminating much needed transparency regarding exactly how much impact free samples have on prescribing patterns in Vermont.”

Joint Resolution Adopted

J.R.H. 31

Joint resolution, entitled

Joint resolution supporting the effort of women ski jumpers for athletic equity at the 2010 Winter Olympics in British Columbia;

Was taken up and adopted on the part of the House.

Rules Suspended; Bill Messaged to Senate Forthwith

On motion of **Rep. McDonald of Berlin**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

S. 48

House bill, entitled

An act relating to marketing of prescription drugs

Rules Suspended; Action Ordered Messaged to Senate Forthwith and Bill Delivered to the Governor Forthwith

H. 192

House bill, entitled

An act relating to electronic benefit machines for farmers' markets;

On motion of **Rep. McDonald of Berlin**, the rules were suspended and action on the bill was ordered messaged to the Senate forthwith and the bill delivered to the Governor forthwith.

Consideration Resumed; House Concurred in the Senate Proposal of Amendment with a Further Amendment Thereto; Rules Suspended and Bill Messaged to Senate Forthwith

H. 145

Consideration resumed on House bill, entitled

An act relating to composting;

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Webb of Shelburne** moved that the House concur in the Senate proposal of amendment with a further amendment thereto, as follows:

In Sec. 3, 10 V.S.A. § 6605j, by striking subdivision (a)(7) in its entirety and inserting in lieu thereof the following:

(7) Definitions of “small-scale composting facility,” “medium-scale composting facility,” and “de minimis composting exempt from regulation.”

On motion of **Rep. McDonald of Berlin**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

House Resolution Placed on Calendar

H.R. 21

House resolution, entitled

House resolution urging the federal government to approve Canadian provincial enhanced driver’s licenses as meeting the land and sea border requirements of the Western Hemisphere Travel Initiative

Offered by: Representatives Partridge of Windham, Baker of West Rutland, Bissonnette of Winooski, Bohi of Hartford, Botzow of Pownal, Branagan of Georgia, Bray of New Haven, Clarkson of Woodstock, Conquest of Newbury, Consejo of Sheldon, Courcelle of Rutland City, Donahue of Northfield, Donovan of Burlington, Emmons of Springfield, French of Shrewsbury, Gilbert of Fairfax, Haas of Rochester, Hooper of Montpelier, Howrigan of Fairfield, Hube of Londonderry, Jerman of Essex, Johnson of South Hero, Keenan of St. Albans City, Komline of Dorset, Krawczyk of Bennington, Lanpher of Vergennes, Lenes of Shelburne, Leriche of Hardwick, Macaig of Williston, Martin of Springfield, McAllister of Highgate, McCullough of Williston, Miller of Shaftsbury, Moran of Wardsboro, Morrissey of Bennington, Nease of Johnson, Nuovo of Middlebury, O’Donnell

of Vernon, Pellett of Chester, Poirier of Barre City, Rodgers of Glover, Savage of Swanton, Shand of Weathersfield, South of St. Johnsbury, Stevens of Shoreham, Sweaney of Windsor, Till of Jericho, Toll of Danville, Waite-Simpson of Essex, Weston of Burlington, Wheeler of Derby, Young of St. Albans City and Zenie of Colchester

Whereas, Canada and the United States enjoy the largest bilateral trading relationship in the world, and

Whereas, the economic health of both nations is closely tied to cross-border travel and trade, and

Whereas, the economic downturn has caused a significant reduction in the cross-border movement of people and goods, and

Whereas, surface transportation trade between the United States and Canada has plummeted a record 34 percent since February 2008, and

Whereas, under the Western Hemisphere Travel Initiative (WHTI), citizens entering or reentering the United States from the Americas are required to have a passport or approved alternative document that denotes citizenship and identity, and

Whereas, the deadline for travelers to comply with the WHTI land and sea border crossing requirements is June 1, 2009, and

Whereas, enhanced driver's licenses (EDLs) have become a preferred means for states situated along the Canadian border and for Canadian provinces to achieve WHTI compliance, and

Whereas, states and provinces have invested significant resources in developing EDL programs, and

Whereas, the government of the United States has actively supported and promoted EDLs as an acceptable alternative to a passport, and

Whereas, the process for the U.S. government's formal approval of Canadian provincial EDLs for purposes of entering and leaving the United States has not been clearly articulated, and

Whereas, many Canadian citizens fully expect their EDLs to serve in lieu of passports, and

Whereas, failure by U.S. Customs and Border Protection to accept Canadian provincial EDLs as meeting the requirements of WHTI beginning June 1, 2009 may result in thousands of Canadian citizens being barred entry into the United States, resulting in further severe consequences for travel and trade, now therefore be it

Resolved by the House of Representatives:

That this legislative body urges the federal government to move expeditiously to grant formal approval to Canadian provincial EDLs as meeting the land and sea entry requirements of the Western Hemisphere Travel Initiative, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to President Barack Obama, Secretary of State Hillary Rodham Clinton, Secretary of Homeland Security Janet Napolitano, U.S. House Committee on Homeland Security Chair Representative Bennie G. Thompson, U.S. Senate Committee on Homeland Security & Governmental Affairs Senator Joseph Lieberman, and the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

Adjournment

At nine o'clock and thirty-five minutes in the evening, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at ten o'clock in the forenoon.